

**KASHMIR  
IN  
SECURITY COUNCIL**

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## INDIA REFERS THE CASE TO THE SECURITY COUNCIL

**O**NLY one day after the Indian troops arrived in Kashmir, that is, on October 28, 1947, the Government of India requested the Pakistan Government to stop all help to the invading tribesmen. But Pakistan did not reply. On October 31, 1947, the Prime Minister of India asked for Pakistan's co-operation in restoring normal conditions in the State of Jammu and Kashmir. India repeated her request several times, but to no purpose. The last occasion on which the request was made was on December 27, 1947. The situation in the State was getting worse with Pakistan's continued support to the marauding tribesmen. It was evident that the Pakistan Government was unwilling to stop assistance to the invaders.

In these circumstances, the obvious course before the Government of India was to pursue the raiders to their bases in Pakistan which, in all probability, would have touched off an inter-Dominion war. Militarily no other course was left open to India. ( But the Government of India, anxious to avoid an open war, sought the help of the United Nations. Therefore the situation in Kashmir, precipitated by the tribal invasion, was brought to the attention of the Security Council.

In accordance with Article 35 of the United Nations Charter, India submitted a memorandum to the President of the Security Council on December 31, 1947. The memorandum stated:

"The facts point out indisputably to the conclusion:

- (a) that the invaders are allowed transit across Pakistan territory ;

- (b) that they are allowed to use Pakistan territory as a base of operations ;
- (c) that they include Pakistan nationals ;
- (d) that they draw much of their military equipment, transport and supplies (including petrol) from Pakistan; and
- (e) that Pakistan officers are training, guiding and otherwise actively helping them."

The Government of India therefore requested the Council to ask the Pakistan Government:

- " (1) to prevent Pakistan Government personnel, military and civil, participating in or assisting the invasion of Jammu and Kashmir State ;
- (2) to call upon other Pakistan nationals to desist from taking any part in the fighting in Jammu and Kashmir State ;
- (3) to deny to the invaders :
  - (a) access to and use of its territory for operations against Kashmir ;
  - (b) military and other supplies ;
  - (c) all other kinds of aid that might tend to prolong the present struggle."

The Security Council placed the memorandum of the Government of India on its agenda, and opened the debate on January 7, 1948. The hearing of the case was subsequently postponed to allow the Pakistan Foreign Minister, Sir Mohammad Zafrullah, to arrive at Lake Success for participation. The Indian delegation, which included Sheikh Mohammad Abdullah, was led by Mr. Gopalaswami Ayyangar.

Presenting India's case in the Security Council on January 15, 1948, Mr. Ayyangar stated:

"We have referred to the Council a simple and straightforward issue. The withdrawal and expulsion of the raiders from the soil of Kashmir and immediate stoppage of the fight are the first and only tasks to which we have to address ourselves".

He told the Council that ample proof was available to establish that the invaders were not only being allowed transit across Pakistan territory, but that they also drew much of their equipment, arms, transport, supplies and petrol from Pakistan :

"The raiders have in use .303 rifles, bren and sten guns, two and three-inch mortars, 3.7 howitzers, anti-tank rifles, Mark-V mines and man-pack Walkie-talkie sets. In the opening phases the invaders were not in uniform. Now they are wearing battle-dress, steel helmets, army great coats and boots. Captured vehicles have Pakistan number plates. Large quantities of petrol, a rationed article without the use of which it is not possible for any bodies of such men to reach Kashmir, would only have come from Pakistan. We have evidence showing that large numbers of buses and lorries, carrying tribesmen to Kashmir, had their petrol tanks filled to the brim at Pakistan pumps without coupons or payment".

Mr. Ayyangar said that Pakistani officers were "training, guiding or otherwise actively helping raiders who were being allowed to use Pakistan territory as a base of operations". He urged the Security Council that not mere urgency but immediacy should characterise the action that should be recommended in the situation.

Replying to Mr. Gopalaswami Ayyangar, Sir Mohammad Zafrullah denied all the charges brought against the Pakistan Government:

"The Pakistan Government emphatically denies that they have given aid and assistance to the so-called invaders".

He gave the whole world a surprise by cataloguing a host of counter-charges against India. They had no bearing upon the Kashmir question and ranged over the usual Pakistan theme of India's refusal to accept the partition of the Sub-continent, genocide of Muslims in India, unlawful occupation by India of the State of Junagadh, etc. Listing these charges against India, he said :

"It would be waste of precious effort if the Security Council occupied itself only in straightening out the Kashmir issue."

The Pakistan Foreign Minister requested the Security Council to appoint a Commission or Commissions to investigate these charges and to call upon the Indian Government to arrange for a cessation of hostilities in Kashmir. He demanded of the Security Council

that steps be taken for establishing "an impartial and independent administration in the State of Jammu and Kashmir and thereafter to hold a plebiscite to ascertain the free and unfettered will of the people of the State as to whether the State should accede to India or Pakistan".

The Security Council, unfortunately, did not call upon Pakistan, as had been demanded by Mr. Ayyangar, to stop all assistance to the invaders and thus bring the hostilities to a close. On the contrary, it passed a resolution on January 17, 1948, moved by the Council President, Van Langenhove of Belgium, which called upon both India and Pakistan—the aggressor and the victim of aggression, as well—"to take immediately all measures in their power, including appeals to the population, to improve the situation and to refrain from making any statements or taking any measures or allowing measures to be taken which might worsen the situation". The resolution was passed by a majority vote with the abstention of Soviet Russia and the Ukraine.

Speaking on the resolution the Soviet representative, Mr. Andrei Gromyko, said :

"This new gesture would not add any thing to what has already been done. . . . We need a resolution which will deal with substance and help restore good relations between the two Governments".

He asked for an adjournment to study the situation thoroughly because "the President's resolution was drafted before hearing these statements (Indian and Pakistan) and it, therefore, does not take into account their contents". But the Council defeated his proposal.

Mr. Noel-Baker of Britain, who was supported by the American representative, Mr. Warren Austin, proposed that "the chairmen of the India and Pakistan delegations should meet with the President of the Security Council to try to find some common ground of settlement". Both Mr. Gopalaswami Ayyangar and

Sir Mohammad Zafrullah agreed to this proposal. Such meetings took place at the Belgian delegation's offices.

The Council President, Dr. Van Langenhove of Belgium, introduced a resolution in the Security Council on January 20, 1948. The resolution provided that :

1. A Commission of the Security Council be established composed of representatives of three members of the United Nations, one to be selected by India, the second by Pakistan and the third to be designated by the two so selected;
2. The Commission shall proceed to Jammu and Kashmir as soon as possible to investigate the facts and secondly "to exercise any mediatory influence likely to smooth away the difficulties"; and
3. The Commission shall perform functions in regard to the situation in Jammu and Kashmir, and secondly, "in regard to other situations" set out by the Pakistan Foreign Minister in the Security Council.

Immediately after hearing the resolution, Sir Mohammad Zafrullah Khan objected to the heading of the resolution, which read "On Jammu and Kashmir Question", and said that it should be dropped as had been agreed previously. The President ruled that it should be so done, as the words were included in error. Mr. Gopalaswami Ayyangar countered that, whether the words were retained or not, it should be clearly understood that the resolution could relate only to the Jammu and Kashmir question which was the only item on the agenda. He added:

"In the course of discussions during the last two days we did consider the question of widening the scope of the Commission's functions. The Pakistan delegation wanted to include matters which did not relate to the Jammu and Kashmir question. After a good deal of argument it was decided that, while the Commission was being appointed primarily on the Jammu and Kashmir question, if, later on, the Security Council decided that any matter in the Pakistan complaint also required investigation it would be appropriate to refer such questions to the same Commission."

Sir Zafrullah contended that, though it was true that the language of the resolution referred specifically to the Jammu and Kashmir question, it should also cover all issues which were disturbing friendly relations between the two States.

"But", Mr. Ayyangar said, "The main question is whether we are investing the Commission with powers today to deal with the Jammu and Kashmir situation as well as other matters brought up by the Pakistan delegation. We cannot, therefore, agree that we are now setting up an instrument of the Security Council to deal with whatever matters the Council may wish to refer to the Commission. The Commission is only set up to deal with Jammu and Kashmir, though the Council is free to refer other matters to it later, if it so desires."

Supporting the resolution, Mr. Philip Noel-Baker (Great Britain) stated :

"I cannot doubt the establishment of the Commission will be of great benefit to the Security Council. I am sure both sides have had to make concessions to each other".

This statement was supported by General McNaughten of Canada.

The Soviet representative, M. Andrei Gromyko, did not agree on the principle governing the creation of the Commission. He said that the principle proposed was one underlying the creation of the Indonesian Commission :

"This makes it formally a Security Council Commission, but in effect it will work independently of it and its relations will be merely on paper. As in the case of the Indonesian Commission, it will work on its own and only inform the Security Council occasionally".

Mr. Gromyko explained that, if they really wanted a Council Commission, then it should be composed of Council members, whether three, five or the whole eleven.

Explaining his attitude to the resolution, he stated :



"Although noting with satisfaction that both parties are prepared to settle the matter in a good-neighbourly relation, I cannot agree to set up the Commission in the manner stated. If this procedure is nevertheless adopted, the Soviet delegation will be obliged to abstain".

The resolution was then put to the vote. Nine voted in favour. Soviet Russia and the Ukraine abstained from voting and the resolution was passed with the required majority.

The Security Council resumed its debate on January 22, 1948. The original item on the agenda was labelled "The Jammu and Kashmir Question". But the Council President, Mr. Van Langenhove (Belgium), changed it to read "India-Pakistan Question". Mr. Gopalaswami Ayyangar objected to this and insisted that the original heading of the agenda should stand. He was supported by the delegates of the Soviet Union, Great Britain, Syria and the U.S.A. But the Security Council decided to broaden the scope of discussion to include the whole range of India-Pakistan problems, and so the debate on "genocide" etc., began in the Council.

Meanwhile discussion took place between the Indian and Pakistan representatives, and the Security Council President. Between January 22 and February 4, 1948, the Security Council met eight times.

While submitting two draft resolutions on January 29, 1948, the Council President reported the failure of the talks between the Indian and Pakistan representatives. (The first draft resolution provided that "the fate of Kashmir should be decided by a plebiscite under international control to ensure impartiality". The second resolution stated that the three-nation Commission for Kashmir should consider among its duties those "which would lend themselves towards promoting the cessation of acts of hostility and violence, and which are rather of a particularly urgent character". The Commission was also asked to "use every diligence to assure that its mediatory action be exercised without delay".

When the debate on the resolution opened, the President suggested that the Security Council might concentrate its attention on the question of holding a plebiscite. Mr. Ayyangar, on the contrary, thought that the urgent matter before the Council was to stop the hostilities in Jammu and Kashmir State. Sir Mohammad Zafrullah Khan supported the President's suggestion, "because without it no agreement can be reached on the other matters in dispute". Mr. Noel-Baker (Britain) also supported this suggestion.

Mr. Ayyangar replied that India also stood for a free plebiscite in Kashmir, but the pressing question before the Council was to bring the fighting in the state of Jammu and Kashmir to an end. The Council must, therefore, concentrate its attention on this vital issue.

The two draft resolutions introduced in the Council by its President were opposed by Mr. Ayyangar. Summing up the reaction in India to these resolutions, he stated:

'As a result of the information which I receive every day from India as to what is happening in my own country, I know it is the opinion in India, which accords with my own view of the matter, that Kashmir burns. This is a very true description of what is now engaging the attention of the Security Council.'

The Indian representative again insisted on the extreme urgency of calling upon Pakistan to withdraw the invading tribesmen from Kashmir and bring the hostilities to an end. But this real issue was being clouded by the Security Council. Some great powers, notably Britain and America, refused to "face the straight issue" put to the Council and the Kashmir case was considered not on its merits, but subordinated to the use of power politics.

Regarding the holding of a plebiscite, Mr. Ayyangar made it clear that on the cessation of hostilities India would gladly ascertain the Kashmir people's views on the question of accession. In fact, this principle had been enunciated by the Government of India on

October 27, 1947, for the first time in the history of the dispute, while accepting Kashmir's accession to the Indian Union. But raising the issue of plebiscite while fighting was going on in Kashmir was putting the cart before the horse. The primary task facing the Security Council, therefore, was to bring the fighting to a close. But this straight and clear issue was being shelved and obscured by the Council.

In the Security Council debate on the two resolutions, the Pakistan representative insisted on two main points, viz., replacement of Sheikh Mohammad Abdullah's Government by "an impartial neutral administration" and, secondly, the withdrawal of Indian troops from Jammu and Kashmir State.

On February 6, 1948, Sheikh Mohammad Abdullah addressed the Security Council. He explained that he was the Head of the Administration of Jammu and Kashmir State, not at the wish of the Maharaja as the Pakistan representative had tried to show, but because he enjoyed the unstinted support of the Kashmir people. He deplored the fact that the Security Council was evading the Kashmir question by bringing in other irrelevant issues that had no bearing upon it. Contradicting the Pakistan denial that assistance was being given to the invaders, he told the Security Council :—

"How am I to convince the Council that the denial is absolutely untrue? I am sitting before the Security Council at a distance of thousands of miles from my country. I have fought many battles along with my own men, on the borders of Jammu and Kashmir. I have seen with my own eyes the support given by the Pakistan Government; not only in supplying bases, but in providing arms, ammunition, direction and control of the tribesmen. And I have seen the Pakistan forces from across the borders".

Rejecting the demand to oust him from power and institute an "impartial neutral administration", Sheikh Mohammad Abdullah said:

"If elections were to be held in the United Kingdom sometime with the Labour Government in power, would anyone say to Mr. Attlee: 'The elections are now going on.

Because you happen to belong to the Labour Party, your sympathies will be in favour of the Labour Vote. Therefore, you had better clear out. We must have a neutral man as Prime Minister until our elections are finished."

He made it clear that the Indian Army was the only protective force in the State against the continued incursion of raiders into the State "who had come to our land, abducted thousands of girls and looted our property".

Sheikh Abdullah again repeated the Indian contention that the only real issue before the Security Council was that "Pakistan must observe its international obligations and must not support any outside raiders."

The two draft resolutions were unacceptable to India for the reason stated above. Mr. Ayyangar, therefore, sought for an adjournment to return to New Delhi for consultation with the Government of India. He accordingly booked a passage for India. But some members of the Security Council opposed his request. Their general comment was: "You cannot go home again, whenever you feel like this". (*New York Times*", February 12, 1948). "For Ayyangar to book his passage", the Columbian delegate said, "without first learning the wishes of the Security Council is to flout the Council. For that body's own dignity it should meet again tomorrow, and keep on meeting until it has reached some decision". The British delegate, Mr. Noel-Baker, also very strongly opposed the Indian representative's simple request for an adjournment.

Indignant at the remarks made by these delegates, Mr. Ayyangar rose to protest :—

"My country has not been treated with the dignity to which it is entitled. A simple request for time to consult with the home Government was being examined with great suspicion. I have been too much twitted today".

The only delegate to intervene in the debate was Mr. Tarasenko of Ukraine :

"There was no doubt about the need for adjournment. And the Council should not even try to limit the period of adjournment, as it could not fix the limit required to consult with the home Government. If the Anglo-American majority was not prepared to agree to this plan and simple request let them refuse it openly. Let votes be taken and recorded on this request".

It was only after the Soviet delegate came out in support of the request for adjournment and with the challenge of putting the issue to vote that the Security Council permitted the Indian Delegation to return home.

The Indian delegation returned from Lake Success on February 12, 1948. On his arrival in Bombay, Sheikh Mohammad Abdullah told press reporters:—

"It is all power politics. There seems to be no place for logic."

Summing up the reaction of India towards the Security Council on the handling of the Kashmir question, Mr. Jawaharlal Nehru said in Jammu:—

"Instead of discussing and deciding our reference in a straightforward manner, the nations of the world sitting on the Security Council got lost in power politics."

The Indian delegation returned to Lake Success for resumption of the debate in the first week of March. This time Sheikh Mohammad Abdullah could not accompany the delegation. The Security Council resumed its discussion on March 10, 1948.

Speaking in the Security Council, Mr. Gopalaswami Ayyangar again asked that priority be given to the matter of stopping the war in Kashmir. Referring to the demand for establishing a "neutral administration" in Kashmir, he said :—

"Any attempt on the part of the Security Council to demand that internal administration of a sovereign state should be put into the hands of an agency unconnected with the State, or any agency which does not command the support of the people of that State, is a proposition which is unthinkable, and I would respectfully urge the Security Council not to press that idea on us."

He also made it clear that the Indian armed forces could not be withdrawn from the State for reasons of defence against external aggression.

In his reply, the Pakistan representative, Sir Mohammad Zafrullah Khan, protested against Sheikh Mohammad Abdullah's appointment as the Prime Minister of Jammu and Kashmir State in March 1948. He demanded of the Security Council that Sheikh Abdullah be removed from the position of power and Kashmir placed under, what he termed, an "impartial administration."

On March 18, 1948, the President of the Security Council, Dr. Tsiang (China), submitted a draft resolution. The resolution was divided into three parts :—

(a) Restoration of peace and order.

(b) Plebiscite.

(c) General provision.

Part (a) provided for:

1. An understanding by the Pakistan Government

(i) to use its best endeavours to secure the withdrawal from Jammu and Kashmir of intruding tribesmen and Pakistan nationals;

(ii) to prevent any further intrusion into the State by denying transit through, and the use of any base in, Pakistan territory, and by forbidding the furnishing of military and other supplies to all elements engaged in hostility or violence against the State";

2. An arrangement by the Government of India "for the progressive withdrawal from Jammu and Kashmir of such of its troops as are not required for the purposes of defence and security."

Part (b) proposed a plebiscite administration to be run by United Nations officials nominated by its Secretary-General.

Part (c) provided for "adequate representation of all major groups in the State" in the interim Government of Jammu and Kashmir.

The Indian representative supported the resolution, as he thought it attempted a fair solution of the points in controversy, with one reservation, namely, that the Indian delegate might make suggestions for modification at a later stage.

The Pakistan representative thought it unlikely that his Government would approve of the proposal. Conversation between the two delegations continued to be held and, as a result, three additional revised drafts were made. At last, on April 17, the representatives of Belgium, Canada, China, Columbia, the United Kingdom and the U.S.A. jointly submitted a resolution, being "the result of conversations between the representatives of the two parties and the successive Presidents of the Council for the last four months". The resolution, besides a preamble, was divided into three parts :—

- (a) Restoration of peace and order.
- (b) Plebiscite.
- (c) General provisions.

The preamble declared that "the early restoration of peace and order in Jammu and Kashmir is essential and that India and Pakistan should do their utmost to bring about a cessation of all fighting". The membership of the Commission established by the resolution of the Council of January 20, 1948, was proposed to be raised to five, and the Commission was instructed to proceed to the Indian Sub-continent "and there place its good offices and mediation at the disposal of the Governments of India and Pakistan".

Part (a) provided for an understanding:

- (i) by the Pakistan Government "to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for purposes of fighting and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State"; and
- (ii) by the Government of India to put into operation in consultation with the Commission, and after it was established that the tribesmen are withdrawing, "a plan withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the Civil power in the maintenance of law and order."

Part (b) provided for an undertaking by the Government of India:

- (i) "to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conducting of the administration at the ministerial level, while the plebiscite is being prepared and carried out";
- (ii) to see that "there will be established in Jammu and Kashmir a plebiscite administration to hold a plebiscite";
- (iii) to see that "there will be delegated by the State to the Plebiscite administration such powers as the latter considers necessary for holding a fair and impartial plebiscite including, for that purpose only, the direction and supervision of the State forces and police;

Part (c) provided that the "Governments of India and Pakistan should each be invited to nominate a representative to be attached to the Commission for such assistance as it may require in the performance of its tasks".

The Indian Representative, Mr. Gopalaswami Ayyangar, spoke on this resolution on April 19, 1948. Referring to the joint six-power resolution then under discussion, he said:

"The scheme of March 18 has in the draft resolution before the Security Council been so attenuated that it is not now possible for us to agree to the draft resolution."

Discussing India's main objections to the substance of the draft resolution, he stated :—

"Perhaps the most unsatisfactory feature of the draft resolution now before the Council is the scant consideration that it gives to the issue on which we invoked the jurisdiction of the Security Council".

Mr. Ayyangar also pointed out that in the resolution Pakistan's dereliction of duty was not even mentioned. The Security Council had even failed to refer to the continuing breach of international obligations by Pakistan.

"The resolution", Mr. Ayyangar added, "tars us with the same brush and makes us look like the co-accused".

One of the most objectionable features of this resolution was the provision that the State Government should "invite the major political groups to designate



responsible representatives to share equitably and fully in the conduct of the administration at the ministerial level". "It contemplates a coalition Government", Mr. Ayyangar said, "in which all major political groups will find equitable and full representation and this representation will be by persons who are to be designated by the political groups themselves". He agreed that some representation should be found for these political groups in the Government. But the selection must be left to the Prime Minister for, otherwise, even people who are waging a war against the State will get representation in the very Government that they are fighting.

Rejecting the draft resolution, Mr. Ayyangar said :

"India brought before the Security Council a plain, simple, straightforward and factually fool-proof issue and the action that we suggested the Security Council should take was inescapable. Instead of taking that action earlier, India's complaint was placed in cold storage for nearly four months of continued bloodshed and economic ruin. And at the end of it all, we are exhorted in appealing language to agree to a resolution, niggardly in its recognition of the merits of the matter and vague and indefinite in the wording of the action to be taken by Pakistan".

Pakistan also objected to the resolution and considered that the measures recommended were not adequate to ensure a free and impartial plebiscite. Speaking in the Security Council on April 19, 1948, Sir Mohammad Zafrullah Khan said :

"Pakistan in order to discharge its obligations must have a certain number of its forces to help supervise the arrangements for cessation and withdrawal".

The Resolution was adopted by the Security Council on April 21, 1948, with a majority vote. The representatives of Syria abstained from voting on many of the paragraphs, and those of the Ukraine and the U.S.S.R. on all of them.

The adoption of the resolution by the Security Council sent a wave of anger and indignation throughout Jammu and Kashmir State. The National Conference General Council was called into session on April 22, 1948, a day after its passage.

"The General Council of the National Conference is of the opinion that the resolution is yet another feature of power politics on which the Security Council has embarked ever since its inception. Right from the time the issue of Kashmir was referred to the Security Council, some members had been at pains to make capital out of the issue for their own designs. Some members even suggested that the Security Council should have a direct hand in the administration of Kashmir.

"The General Council wishes to make it clear for all time that it will brook no interference from any quarter in the newly-won freedom attained by the people after a bitter struggle extending over 17 years. The General Council rejects the resolution *in toto* and calls upon the people to reject this decision. The General Council calls on the popular Government to arm the people and take immediate steps to mobilise the entire nation for this purpose".

Speaking in the General Council, Sheikh Mohammad Abdullah stated :

"The strange attitude shown by the Imperialist Powers convinced him (Sheikh Adullah) that nothing could come out of the talks and he had accordingly asked Mr. Ayyangar to withdraw the case altogether. Mr. Noel-Baker flatly denied the complicity of Pakistan in the raids, which, he said, were of a local nature. Mr. Warren Austin insisted on a 'neutral administration' for Kashmir, which, he frankly said, would include a few members of the Security Council. Most of the members saw Kashmir only as a neighbour of Russia and therefore an essential base in the encirclement of Russia for future aggression."

The membership of the Five-Power Commission was completed by May 7, 1948.) India chose Czechoslovakia. Pakistan submitted the name of Argentina, while the Security Council itself nominated Belgium and Columbia. When the Indian and Pakistan nominees, Czechoslovakia and Argentina, failed to agree on the fifth member, the President of the Council nominated the U.S.A.

The Government of India informed the Security Council that it would not be possible for them to implement those parts of the resolution against which it had already objected. The Indian representative, Mr. P. P. Pillai, told the Security Council on May 27, 1948 :

"India is unable to undertake the obligation placed on her by the present resolution, unless it is amended in the direction indicated."

This statement of Mr. Pillai provoked the American delegate, Mr. Warren Austin, to remark angrily :—

"We notice that there does not seem to be any sense of obligation on parties who use the expensive machinery of the United Nations to respect the judgment at which the Commission arrives. . . . . Now we are told that they will not implement some of the most important articles of our recommendations. That is an absurd position for the United Nations to be in. . . . . It is not only mostly wrong. It is not in conformity with the spirit of the Charter. If parties come to us for the settlement of the dispute, they must abide by the Commission's decision."

On May 28, 1948, Mr. Ispahani, the Pakistan representative, requested the Security Council to direct the Five-Power Commission to go into the questions of (i) Junagadh, (ii) ' genocide ' and (iii) those arising out of the partition of the Indian sub-continent. He added : " While admittedly the Kashmir issue was considered by the Council to be the most urgent of all the issues on which Pakistan and India have differences, these other issues cannot, I submit, be regarded as of lesser significance in the totality of relations between the two Dominions ".

Some powers, notably Great Britain and America, helped Pakistan to have these issues discussed and considered in the Security Council. A debate took place in the Council, and on June 3, 1948, the Council President (the Syrian representative) submitted a resolution which proposed that the Commission be directed :

1. "To proceed without delay to the area of dispute with a view to accomplishing in priority the duties assigned to it by the resolution of April 21, 1948"; and
2. "To study and report to the Security Council, when it considers appropriate, on the matters raised in the letter of the Foreign Minister of Pakistan dated January 15, 1948."

The resolution was passed by the Security Council, with China, the Ukraine and the U.S.S.R. abstaining.

The Prime Minister of India, in a cable to the President of the Security Council, protested against the widening of the Commission's scope. Referring to India's objections to the Council resolution of April 21, 1948, the Prime Minister stated:

"There can be no question of the Commission proceeding to implement the resolution on Kashmir until the objections raised by the Government of India have been satisfactorily met. If the Commission is to visit India, they would like to know, in advance, the point or points on which it would wish to confer with them."

This request was communicated by the President of the Security Council to the Chairman of the Commission, from whom the Government of India got a reply. The reply stated that the Commission was "proceeding to the Indian Sub-continent with the most sincere desire to be of real service to your own as well as to the Pakistan Government for the settlement of the situation in the State of Jammu and Kashmir. With regard to its further dispositions the Commission has reserved its decision".

Affirming their readiness to confer with the Commission, the Government of India replied: "We have not yet been told, however, what points the Commission would wish to discuss with us, and should be glad if this information could be supplied urgently".

In response to this request, the Commission stated that they "were proceeding to India and Pakistan with a view to a peaceful settlement of the situation in the State of Jammu and Kashmir. Having reserved a decision regarding its further dispositions in the course of its work, it desires to confer with your Government regarding the various factors which may affect this situation."

## 2

### THE COMMISSION ARRIVES IN THE SUB-CONTINENT

**T**HE Commission held its first meeting in Geneva on June 15, 1948. It arrived in India on July 10, 1948. On its arrival, the members of the Commission expressed a wish to be presented with an up-to-date picture of the Kashmir situation by an authorised spokesman. Accordingly Sir Girja Shankar Bajpai and Mr. M. K. Vellodi were appointed Special Representatives for the purpose, and they attended four meetings of the Commission by invitation.

The Commission returned to Karachi at the end of July and held separate consultations with the Pakistan Government.

The Commission's Sub-Committee proceeded to Kashmir. On September 6, as announced by *The New York Herald Tribune*, it started its economic-political survey of the State under the guidance of the Argentine member.

Meanwhile, the Commission cabled the United Nations Secretary-General for the services of 40 military observers and a military adviser of the rank of general. Mr. Jacob Mallik (Soviet Union), who happened to be the Security Council chairman at the time the cable reached Lake Success, called a meeting of the Council to discuss the selection of observers. He suggested that the military observers be drawn from all the five countries represented on the Commission. Citing the example of Palestine, where the observers were drawn equally from the U.S.A., France and Belgium—the three countries serving on the Palestine Truce Commission—Mr. Jacob Mallik demanded that

the same procedure be adopted in selecting observers for Kashmir.

All Council members, except Mr. Mallik and Mr. Dimitri Manuilsky of the Ukraine, took the view that a debate on the question of the selection of observers was not at all necessary. By an overwhelming majority, the Soviet suggestion was voted down.

On August 13, the Commission formulated and presented to the Governments of India and Pakistan a resolution proposing a cease-fire. The resolution was as under :—

“The United Nations Commission for India and Pakistan, having given careful consideration to the point of view expressed by the representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir, and being of the opinion that the prompt cessation of hostilities and the correction of conditions, the continuance of which is likely to endanger international peace and security, are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation;

“Resolves to submit simultaneously to the Governments of India and Pakistan, the following proposal :—

## PART I

### *Cease-Fire Order*

- A. The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practical date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.
- B. The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment the Military potential of the forces under their control in the State of Jammu and Kashmir.

(For the purpose of these proposals "forces under their control" shall be considered to include all forces, organised and unorganised, fighting or participating in hostilities on their respective sides).

- C. The Commanders-in-Chief of the forces of India and Pakistan shall promptly confer regarding any necessary local changes in the present dispositions which may facilitate the cease-fire.
- D. In its discretion and as the Commission may find practicable, the Commission will appoint Military Observers who under the authority of the Commission and with the co-operation of both Commands will supervise the observance of the cease-fire order.
- E. The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

## PART II

### *Truce Agreement*

Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in Part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their representatives and the Commission.

- A. 1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.
- 2. The Government of Pakistan will use its best endeavours to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.
- 3. Pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

- B. 1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part II, Clause A(2), hereof, have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of their forces from that State in stages to be agreed upon with the Commission.
2. Pending the acceptance of the conditions for final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire those forces of its Army which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.
3. The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within their power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.
- C. 1. Upon signature, the full text of the Truce Agreement or a communique containing the principles thereof as agreed upon between the two Governments and the Commission will be made public.

### **PART III**

#### ***Plebiscite***

The Government of India and the Government of Pakistan re-affirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.



The Commission subsequently gave elucidations and explanations of its proposals to the two Governments. In a letter to the Commission dated August 20, 1948, the Prime Minister of India wrote that the resolution should not be interpreted or applied in practice so as

- (i) to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by the Pakistan troops;
- (ii) to afford any recognition of the so-called "Azad Kashmir Government".

The letter also referred to an interview of the Prime Minister with the Commission on August 17 where it was made clear by the Commission that it was "not competent to recognise the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government."

"Animated by a sincere desire", the letter concluded, "to promote the cause of peace and thus to uphold the principles and prestige of the United Nations, we have decided to accept the resolution".

In another letter to the Commission on the same day, the Prime Minister of India wrote that the authority of the Jammu and Kashmir Government over the sparsely-populated and mountainous regions of the State in the north "has not been challenged or disputed, except by roving bands of hostiles". "We desire", the letter added, "that after Pakistan troops and irregulars have withdrawn from the territory, the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir, and that for defence to us. (The only exception that we should be prepared to accept would be Gilgit). We must be free to maintain garrisons at selected points in this area for the dual purpose of preventing the incursion of tribesmen, who obey no authority, and to guard the main trade routes from the State into Central Asia".

The Chairman of the Commission, Mr. Joset Korbel, replied to the Prime Minister's letters on August 25. To the first letter, he said that the Commission was of the opinion that the interpretation of the Resolution, as expressed by the Prime Minister, was its own interpretation. On behalf of the Commission he expressed to the Prime Minister, "its sincere satisfaction that the Government of India has accepted the Resolution and appreciates the spirit in which this decision has been taken". To the second letter, he replied :

"The Commission wishes me to confirm that, due to the peculiar conditions of the area, it did not specifically deal with the military aspect of the problem in its Resolution of August 13, 1948. It believed, however, that the question raised in your letter could be considered in the implementation of the Resolution".

The Pakistan Government also sought clarifications and elucidations of certain points arising out of the August 13, proposals. The matters with regard to which further elucidations were required were set out in a memorandum submitted to the Commission by the Pakistan Foreign Minister on August 19, 1948. A brief summary of the issues raised in the memorandum is as follows :

1. As explained to the Commission, it is only the "Azad Kashmir Government that can authorise the issue of cease-fire orders to their own forces". What steps has the Commission taken or proposes to take to secure the agreement of the Azad Kashmir Government to its proposals?"
2. The Indian Army offensive in the beginning of April was "a material change in the situation". This "constitutes a direct threat to Pakistan security". "It was this which compelled the Government of Pakistan to move their troops into certain defensive positions". The Commission's resolution states that the "presence of Pakistan troops in the territory of the State constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council". The reasons for moving the Pakistan troops, explained above, have been omitted in the Resolution,

and the Pakistan Government are "unable to appreciate the omission."

3. The Pakistan Government would like to know what measures or guarantees the Commission has in mind to "safeguard the security of Pakistan and the population of the areas under the control of the 'Azad Kashmir' Government against any subsequent aggressive action by the Government of India and of the Sikh and R. S. S. volunteer bands". In particular the Pakistan Government would like to know whether the Commission "intend to secure the services of an international or neutral Force for the purpose."
4. "The Government of Pakistan would wish to be enlightened as to the reasons which, while necessitating or rendering desirable the surveillance of the Commission over the 'Azad Kashmir' Government in respect of the territories of the latter, would not with much greater force call for the surveillance of the Commission over the regime operating in the rest of the State."
5. Whether "surveillance of the Commission over the territories of the 'Azad Kashmir' implies any control over the 'Azad Kashmir' forces, which would under the Commission's proposal remain intact." What control does the Commission "contemplate exercising over the State Forces' local militia raised by Sheikh Abdullah and over any Indian Armed Forces that may be left in the State under the Commission's proposal."

While submitting this memorandum to the Commission, the Pakistan Foreign Minister made the surprising revelation that the Pakistan troops had moved "into certain defensive positions" in the State of Jammu and Kashmir. So far, the Government of Pakistan had all along been denying the presence of its forces in the State. But the admission of Sir Mohammad Zafrullah Khan gave the lie to his earlier statements.

In fact, Sir Mohammad Zafrullah's denial of Pakistan's complicity in the invasion of Kashmir, though repeated times without number, had never stood the test of facts. In this connection, it is necessary to recall here the following significant sentences from the book, "*Mission with Mountbatten*", written by Lord

Mountbatten's Press Attache, Mr. Allan Campbell-Johnson :

"This led Jinnah to make his general proposal, which was that both sides should withdraw at once, and simultaneously. When Mountbatten asked him how the tribesmen could be induced to remove themselves, his reply was, '*If you do this, I will call the whole thing off*.'" (Italics ours.)

These last few words spoken by Mr. Jinnah to Lord Mountbatten in the meeting of the Joint Defence Committee in November 1947 shed a fierce light on the lead that Pakistan took in organising the tribal invasion of Kashmir. How else could Mr. Jinnah, the then Governor-General of Pakistan, take the responsibility of calling "the whole thing off" ?

What Mr. Jinnah gave out as early as November 1947 was belatedly admitted by Sir Mohammad Zafrullah in August 1948.

Mr. Joseph Korbél, on behalf of the Commission, replied to the Pakistan memorandum on August 27:

1. "In answer to the questionnaire placed by the Commission before the Government of Pakistan on August 4, 1948, the Minister of Foreign Affairs stated that 'the Pakistan Army is at present responsible for the over-all command . . . of Azad Kashmir forces' ". It was stated by the Pakistan High Command on August 9, 1948, that the 'Azad Kashmir forces were operationally controlled by the Pakistan Army.' In view of these assurances the Commission understands that the Government of Pakistan will ascertain and reflect the position of the Azad authorities in arriving at their decision with regard to the Commission's resolution of August 13, 1948."
2. "The presence of Pakistan troops in Jammu and Kashmir, however, constitutes a material change inasmuch as the Security Council did not contemplate the presence of such troops in the State, nor was it apprised thereof by the Government of Pakistan. The Commission cannot accept the statement in the memorandum that the Commission's description in this respect is 'one-sided and inadequate'."

3. "In drawing up the resolution of August 13, 1948, the Commission did not and could not proceed on the assumption that one or the other party would violate the truce."

"As the Government of Pakistan are aware, the United Nations does not have at its disposal an international force. The use of a neutral force has not been contemplated by the Commission. However, the Government of Pakistan will have noted that the resolution provides for neutral military observers to be stationed where the Commission deems it necessary."

4. "Surveillance of territories of the State of Jammu and Kashmir other than those now occupied by the Pakistan Army and forces under its control is not provided for in the resolution. The administration of such areas remains under the jurisdiction of the Government of the State."
5. "The Commission does not contemplate measures of control over forces remaining within the State of Jammu and Kashmir beyond the provision of the resolution."

The Commission held two meetings with the Pakistan Foreign Minister on August 31 and September 2, where further clarifications of certain points of the Resolution were made.

After a serious and anxious consideration of the August 13th proposals and the clarifications and elucidations of its provisions that the Commission furnished, the Pakistan Government, on September 16, transmitted to the Commission their views on these proposals. The Pakistan Government stated at the outset that they were "not as such in any sense binding upon the Azad Kashmir Government, nor do they in any matter reflect the views of the Azad Kashmir Government". They revealed that, as a result of the clarifications and elucidations furnished by the Commission, the August 13 resolution sought to achieve, among other things, the objective of administering "all territory under the authority or control of the Pakistan High Command, including Gilgit and the areas under the control of Azad Kashmir", by the authorities which

were "in *de facto* control of it at the time of the cease-fire", and that the Azad Kashmir Forces should remain intact, i.e., "shall not be disarmed or disbanded".

"The presence of the armed forces of the Government of India in any part of the State", the letter added, "would militate against the restoration of peaceful conditions and would also conflict with the establishment of conditions for a free and impartial plebiscite".

Sir Mohammad Zafrullah Khan, who transmitted these views to the Commission in a letter dated September 6, demanded of the Commission that "if any clarifications or elucidations have been furnished by the Commission to the Government of India, it is necessary that they should be communicated to the Government of Pakistan and the latter's agreement to them secured, and *vice versa*."

Pakistan accepted the resolution of August 13, subject to the clarifications and elucidations furnished by the Commission to Pakistan being accepted by India and the elucidations and clarifications, if any, furnished by the Commission to India, being acceptable to Pakistan.

On September 6, 1948, The Commission declared that the immediate effectuation of their August 13 proposals was not to be envisaged. The Commission stated that it was "assiduously studying" the replies and expected to continue the negotiations with both the Governments — "should it find it desirable". The Commission decided to leave for Europe to prepare an interim report to the Security Council on the then situation in Jammu and Kashmir. It adopted a resolution on September 19 which called upon the two Governments "to use their best endeavours during the absence of the Commission to lessen the existing tension in this dispute". Meanwhile, the Commission split into two groups, one group leaving for Srinagar and the other for Western Kashmir.

The Commission members arrived in Geneva in the last week of September. Their report to the Security Council was released in Pakistan on November 22, 1948. The Report was an interim one and did not attempt to draw any final conclusion or make recommendations for future action by the Security Council. The following are some of the main points of the Report :

1. The presence of Pakistan troops within the territory of Jammu and Kashmir State confronted the Commission with a situation different from that envisaged by the Security Council. This new element necessitated an agreement between the Governments of India and Pakistan for the cessation of hostilities. The Government of India had signified acceptance of the cease-fire resolution of August 13 as a whole.
2. The Government of Pakistan had attached to their acceptance certain conditions which went beyond the compass of the Resolution, "thereby making impossible an immediate cease-fire and beginning of fruitful negotiations to bring about a peaceful and final settlement in Jammu and Kashmir."
3. The Commission hoped to induce the Government of Pakistan to exercise their influence on tribesmen and Pakistan nationals to withdraw from the State. On achieving that, it intended to obtain a progressive withdrawal of Indian troops to the minimum strength required "for the support of the Civil Power in the maintenance of law and order", and a further agreement of the Government of India to a plebiscite along the lines laid down in the Security Council Resolution.
4. The fact that all the forces fighting on that side were under the over-all command and tactical direction of the Pakistan Army, as admitted by the Pakistan Government, had "confronted the Commission with an unforeseen and entirely new situation."
5. Along the lines of the Security Council Resolution, the Commission considered that the Pakistan Government should be asked, as a first step towards a final solution of the dispute, to withdraw its forces from the State.

The Security Council resumed its debate on Kashmir on November 25. It unanimously appealed to

- India and Pakistan to stop fighting in Kashmir and to do nothing to aggravate the situation or endanger the present negotiations. The Council also gave its full support to the appeal previously made by the Kashmir Commission on the same lines.



### 3

#### CEASE-FIRE AND AFTER

**I**N the last week of December, Dr. Alfred Lozano, member of the United Nations Commission for India and Pakistan, accompanied by Mr. Sampher, his Alternative, and Dr. Erik Colban, Personal Representative of the United Nations Secretary-General, visited New Delhi and Karachi to discuss with the two Governments certain proposals supplementary to the resolution of August 13, 1948. These proposals dealt with certain principles to govern the holding of a plebiscite in Jammu and Kashmir after normal conditions had been restored. Both the Governments accepted these proposals and Dr. Lozano returned to New York on December 26 to report to the Commission. The proposals on which agreement had been secured were to be announced by the Commission at a later date.

In view of the fact that, with the acceptance of these proposals, there remained no reason for a continuation of hostilities until the Commission's formal announcement, the Government of India authorised their Commander-in-Chief, General Sir Roy Bucher, to inform General Sir Douglas Gracey, Commander-in-Chief, Pakistan, that the Indian troops would cease-fire, provided the Commander-in-Chief, Pakistan could give assurance of immediate effective reciprocal action on his part, which he did. A cease-fire was therefore ordered by both the Army Commands to take effect from one minute before midnight of January 1, 1949.

In its meeting of January 15 at Lake Success, the Commission adopted a resolution which had been accepted by both the Governments. The resolution provided that :

1. The question of accession of the State will be decided through the method of a "free and impartial plebiscite."

2. A Plebiscite Administrator will be nominated by the United Nations Secretary-General in agreement with the Commission. He will be "formally appointed to office by the Government of Jammu and Kashmir" and shall derive from the State of Jammu and Kashmir the powers he "considers necessary for organising and conducting the plebiscite".
3. The Plebiscite Administrator shall have "authority to appoint such staff or assistance and observers as he may require".
4. After implementing the cease-fire and truce agreements as outlined in the August 13th resolution, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will "determine in consultation with the Government of India the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and freedom of the plebiscite".
5. Final disposal of the armed forces of the "Azad Kashmir" territories will be "determined by the Commission and the Plebiscite Administrator in consultation with the local authorities".

The substance of the discussions which took place between Dr. Lozano and the Prime Minister of India at New Delhi, between December 20 and 22, were published by the Government of India in two *aide memoires*. In the discussions held on December 20, Dr. Lozano was accompanied by Mr. Sampher, his Alternative, and Mr. Colban, Personal Representative of the Secretary-General of the United Nations. Mr. Gopalswami Ayyangar and Sir Girja Shankar Bajpai were also present.

A resume of the *aide memoire* of the Conference which took place on December 20 is given below:

(1) The Prime Minister emphasised: (i) that, if the Government of India were to accept the Commission's plebiscite proposal, no action could be taken in regard of them until the cease-fire and truce agreements as laid down in Parts I and II of the August 13th resolution had been fully implemented; (ii) that "in the event of Pakistan not accepting these proposals, or,

having accepted them ", not implementing Parts I and II of the August 13th resolution, " the Government of India's acceptance of them should not be regarded in any way binding upon them " ; (iii) while the Government of India " adhered to their position in regard to a plebiscite, they had pointed out that, in view of the difficulties of holding a plebiscite in present conditions in Kashmir, other methods of ascertaining the wish of the people should also be explored " .

(4) As regards (i), Dr. Lozano enquired whether there would be objection to the Plebiscite Administrator's appointment before the cease-fire and truce agreements (as provided in Parts I & II of the August 13th Resolution) were implemented. Both he and Mr. Colban agreed that the " Plebiscite Administrator could do useful exploratory work even before arrangements for holding a plebiscite could be taken in hand ". The Prime Minister pointed out that the Commission could employ advisers or experts for its work. The Government of India would, however, regard the Plebiscite Administrator's appointment as premature until Parts I and II of the August 13th resolution had been implemented. Dr. Lozano accepted (ii). As regards (iii), he said that the Commission wished the possibility of a plebiscite to be explored first. If the Plebiscite Administrator, however, finds a plebiscite to be impracticable, other methods for ensuring a free expression by the people of the State will be considered.

(3) The question was raised whether the Plebiscite Administrator would be given the powers of interference in the State Administration. Dr. Lozano said that a " Plebiscite Administrator of international standing and commanding general confidence " would be appointed after consultation with the Government of India and that the " Commission did not intend that he should usurp the functions of the State Government in the field of normal administration and law and order."

(4) The Prime Minister drew attention to the fact that the Azad Kashmir forces which were under the operational command of the Pakistan Army "ran into tens of thousands". Their presence would be a constant threat to the territory under the control of the State and Indian forces, and an obstacle to the free expression of opinion regarding the future of the State by those who might be opposed to Kashmir's accession to Pakistan. Dr. Lozano pointed out "that it was the Commission's intention that there should be large-scale disarming of these forces."

(5) India is a secular State, whereas Pakistan aims at being a theocratic State. "An appeal to religious fanaticism would not be regarded as a legitimate political activity." Dr. Lozano agreed that "any political activity which might tend to disturb law and order could not be regarded as legitimate".

(6) In all their negotiations, the Government of India have emphasised the paramount need of securing the security of the State. They wish to "emphasise the supreme importance which they attached to adequate provision for the security of the State in all contingencies".

A second conference took place between the Prime Minister and Dr. Lozano. Mr. Sampher, Mr. Colban, Mr. N. Gopalaswami Ayyangar, Sir Girja Shankar Bajpai and Mr. Pai were also present. A resume of the *aide memoire* of this Conference is given below :—

(1) Dr. Lozano said that the *aide memoire* of the conference which took place on December 20 was a correct one. He suggested that the phrase "large-scale disarming" of the Azad Kashmir forces used in this *memoire* (see para 4) did not represent the Commission's intention. The Commission had in mind the disbanding of these forces ; "disarming, it was assumed, would follow". The Prime Minister pointed out that disbandment was not the same thing as disarmament.

Pakistan had raised something like 35 battalions of 28,000 to 30,000 men who now formed part of the Azad Kashmir Forces. The presence of such a large number of forces, even if the regular formations were disbanded, would be a threat to the security of the State or the security of those inhabitants of the territories held by these forces who do not share the political views of pro-Pakistan elements. Moreover these inhabitants would be debarred from participating in the elections. In view of this explanation, Dr. Lozano agreed that the phrase "large-scale disarming" should be regarded as correctly interpreting the Commission's intention.

(2) Answering an enquiry from the Prime Minister, Dr. Lozano said that the Commission did not contemplate that the Plebiscite Administrator should undertake any administrative functions in regard to the Plebiscite, until the cease-fire and truce agreements (as provided in Parts I and II of the August 13th resolution) had been implemented. What the Commission had in mind was the discussion on details connected with the plebiscite, as this would create a good impression all around. The Prime Minister replied that the Governments of India and Jammu and Kashmir could not be expected to discharge any of their responsibilities regarding the plebiscite until there was satisfactory evidence that Pakistan was carrying out the cease-fire and truce agreements of the August 13th resolution. Moreover, the discussion of detailed arrangements for carrying out a plebiscite with the Plebiscite Administrator would be impracticable until Parts I and II (cease-fire and truce agreements) of the August 13th resolution had been implemented. The starting of consultations with the Plebiscite Administrator immediately on the signature of a truce was not feasible. Dr. Lozano and Monsieur Colban agreed that the consultation could take place only after the Commission was satisfied that satisfactory progress had been made with the implementation of Parts I and II of the August 13th resolution, that is, after hostile tribesmen, Pakistan

forces and Pakistan nationals who had entered the State for purposes of fighting had withdrawn from State territory. Dr. Lozano said this was the view which they would present to the Pakistan Government in Karachi.

(3) Dr. Lozano stressed the importance of appointing the Plebiscite Administrator as soon as possible. He thought it might take some time before the Plebiscite Administrator was appointed. The Prime Minister pointed out that, if Pakistan accepted the present proposals and carried out its obligations as laid down in the resolution of August 13, he saw no reason why the appointment should take much time.

(4) Concluding the discussion, the Prime Minister once again emphasised the need of security for displaced State nationals returning to the territory occupied by the Pakistan and "Azad" Forces. Equally important would be the task of rehabilitating refugees returning to the State. Dr. Lozano recognised the importance of this matter and pointed out that it would have to be carefully gone into when the consultations on the details of the present proposal took place.

The Government of Pakistan issued a press communique on January 16, 1949, together with the text of the Commission's proposal of December 11, the clarification given by Dr. Lozano to the Pakistan Government and the Pakistan Government's letter of December 25, accepting the Commission's proposal as explained and elucidated by Dr. Lozano. The communique set out in brief the basis on which the Pakistan Government had accepted and was implementing the Commission's resolution of August 13, 1948 and January 5, 1949. A brief summary of the communique is given below :—

1. The truce agreement provides for the withdrawal from the State of all Pakistan troops and of the bulk of the Indian Army. In its letter of August 27, 1948, to the Government of Pakistan, the Commission explained that synchronisation of the withdrawal of the

armed forces of the two Governments will be arranged between the respective High Commands and the Commission ". During the truce period, the Indian Army will be the minimum required for the maintenance of internal security and law and order.

2. The Commission further explained in its letter of September 19, 1948, that the areas occupied by the Pakistan forces would " remain in the occupation of the Azad Kashmir forces ". " The Commission stated categorically that its resolution of August 13 ' does not contemplate the disarmament or disbanding of the Azad Kashmir forces ' ".

3. The Pakistan Government undertook to use its best endeavours " to secure the withdrawal from the State of tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting ".

4. Pending a final solution, the territory evacuated by Pakistan troops would be administered by the " local authorities " under the surveillance of the Commission. It was explained by the Commission that the term " local authorities " meant the Azad Kashmir Government, although the Commission could not, and did not, recognise that Government. The Commission also explained that the Government of Jammu and Kashmir would not, under any circumstances, be permitted to interfere with or send any officials to the territory held by the " Azad Kashmir " Government.

The main points covered in the memorandum embodying the clarifications of the Commission's proposal of December 11 given by Dr. Lozano to the Pakistan Government and released on January 16, 1949, are given as under :—

1. The Plebiscite Administrator will be selected in consultation with the Governments of India and Pakistan, but the final decision will rest with the Secretary-General of the United Nations in agreement with the Commission.

2. The expression, "the Plebiscite Administrator will be appointed to office by the Government of Jammu and Kashmir", does not mean that he will be an employee of this Government, subject to its control.
3. By the expression, "the Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary", is meant that the Plebiscite Administrator will be competent to exercise such powers as he considers necessary for organising and conducting the plebiscite and he shall be deemed to have derived these powers from the authorities concerned.

In agreement with the United Nations Commission for India and Pakistan, Mr. Trygve Lie, the United Nations Secretary-General, nominated on March 22, 1949, Admiral of the Fleet Chester W. Nimitz, former United States Chief of Naval Operations, as Plebiscite Administrator for Jammu and Kashmir. Meanwhile, Lt.-General Maurice Delvoie had been appointed Military Adviser to the Commission. He was to be aided by a group of 37 Military Observers, out of which 35 were working in the State since June 1, 1949. These observers were drawn from the armies of America, Canada, Belgium and Norway.

The United Nations Commission for India and Pakistan arrived in the Sub-continent early in February, 1949. Immediately on its arrival the Commission set itself to the task of evolving a truce agreement acceptable to the Governments of India and Pakistan. Both the Governments submitted their respective truce proposals to the Commission early in March.

The Commission presented to the Governments of India and Pakistan its first truce proposals on April 15, 1949. Later on, these were modified and final proposals were submitted on April 28. While submitting these proposals, the Commission, in a covering letter to the two Governments, stated that "it does not believe that fruitful results will be obtained from further discussion. It is in this spirit that the Commission requests unreserved acceptance of the enclosed terms".



The Government of India replied to the Commission's proposal on May 18, 1948. The letter stated that the disbanding and disarming of "Azad Kashmir" forces should not be left in a state of uncertainty or be hereafter the subject of challenge and dispute. Therefore, the Pakistan Government's agreement should be obtained in disbanding and disarming the 32 battalions of the "Azad Kashmir" forces. The phasing of the withdrawal of Indian troops should "depend on the progress made with the actual disbanding and disarming of the 'Azad Kashmir' Forces". The letter also referred to the Prime Minister of India's letter to Mr. Korbel dated August 20, 1948, and stated that the principle that Indian troops should garrison important strategic places of the sparsely-populated and mountainous areas of the north be accepted.

In its reply to the truce proposals, the Government of India adhered to the elucidations and clarifications given by Dr. Lozano in his meeting with the Prime Minister between December 20 and December 22. The principle of disarming and disbanding the "Azad Kashmir" forces had been explicitly agreed to by Dr. Lozano. Also, regarding the defence and administration of the northern areas, Mr. Korbel, the then Commission chairman, had written to the Prime Minister of India that "the Commission believes that the question raised in your letter of August 20, 1948 could be considered in the implementation of the resolution"

The Pakistan Government held divergent views on the truce proposals. They maintained that the question of the disbanding and disarming of "Azad Kashmir" forces and the transfer of military and administrative control of the northern areas to the Government of India and the Jammu and Kashmir State were extraneous to the Commission's August 13th resolution.

While India was demanding (during the course of discussion on the Commission's truce proposals) the handing over of the northern areas to the Kashmir

Government, certain significant developments took place in these strategically-situated territories. On March 12, the Commission announced that it had set up a sub-committee to study the administrative machinery and other problems of the "Azad Kashmir" areas. The Commission had assured the Government of India (Mr. Korbels's letter of August 20, 1948, to the Prime Minister) that the matter of defence and administration of the northern areas would be considered in the implementation of the August 13th resolution. But the Commission evaded it by declaring that it would study the situation in those areas. Bringing this fact to the notice of the Security Council, Dr. Chyle, the Czechoslovak member of the Commission who submitted a minority report in December 1, 1948, gave some interesting sidelights on the inner workings of the UNCIP :

"This obligation of the Commission which, due to the Commission's own faulty judgment did not represent any formal part of the resolution of August 13, 1948, the Commission now explains as only a declaration of an intention to study later on the situation in the north."

At the time the Commission decided to study the situation in the "Azad Kashmir" areas, Pakistan, contrary to the provisions of the August 13th resolution, had "conquered" many places in northern Kashmir. Pakistan thereby sought to present a *fait accompli* to the Commission.

This was explained by Dr. Chyle, the Czechoslovak member of the Commission, in his report to the Security Council :—

"The situation in the northern areas had, meanwhile, undergone a material change in that the Pakistan Army . . . conquered many strategically important places during the interval. The Commission is bound to admit that while the reservation of the Government of India of August 20, 1948, may be legally valid, it is physically impossible to implement it."

On May 31, 1949, the Commission studied the replies of the Governments of India and Pakistan to its

truce proposals. On June 6, it announced that both the Governments had rejected the proposals and stated that it was still studying the replies in details.

The Commission unanimously agreed "to make a further effort to obtain a truce agreement and to reconcile the points of view of the Governments of India and Pakistan". Dr. Alfred Lozano was asked by the Commission to seek clarifications covering certain points of India's reply to the Commission's truce proposals. Dr. Lozano accordingly reached Delhi on June 12 and re-opened talks with the Government of India. Dr. Lozano was accompanied by Mr. Sampher, his Alternative.

The Commission decided on June 22 to send a mission to Karachi to seek clarification of the Pakistan Government's reply to its truce proposals of April 28. Mr. Robert, the American member of the Commission, was deputed for the job. He was to be accompanied by Mr. Colban, the Personal Representative of the United Nations Secretary-General.

On June 24 Dr. Lozano resigned his post on the Commission on "personal and political reasons". Dr. Lozano said in Srinagar that he had tendered his resignation in the month of May, but had to continue to remain on the Commission at its request. Mr. Sampher, his Alternative Member of the Commission, acted in his place.

Mr. Trygve Lie, the United Nations Secretary-General, disclosed on June 24 that the Commission had asked for 24 new military observers to supervise the cease-fire line in the Jammu and Kashmir State.

## THE PROPOSAL FOR ARBITRATION

**A** JOINT military conference of India and Pakistan was held in Karachi from July 18 to July 28. The representatives of the Commission also participated in it. A cease-fire line for the entire State of Jammu and Kashmir was agreed upon by the Indian and Pakistan representatives. Later on, the Governments of India and Pakistan ratified the agreement.

After the rejection of its truce proposals of April 28, 1949, by the Government of India and Pakistan, the "Commission's majority considered on the whole any further efforts in mediation as futile and from the beginning of June, 1949, the United States delegation strove to bring the Commission round to the idea of solving the question of truce by arbitration" (Dr. Chyle's report to Security Council, December 1, 1949). The Czechoslovak delegation, on the other hand, argued that the Commission was bound, on legal and moral grounds, to send invitations to the two Governments to attend a joint political meeting before considering any other means of solution. The Commission accepted the Czechoslovak proposal, but subject to the successful termination of the joint military conference at Karachi. The Czechoslovak delegation disagreed with the tying-up of a serious political matter with a favourable result of the military conference. Nevertheless, the majority of the Commission stuck to its stand that the decision of calling a joint political conference of both the Governments would depend on the result of the Karachi military conference.

After the successful termination of the military conference, where an agreement on the drawing of a cease-fire line was arrived at, the Commission approved in its morning session of July 29, 1949 (with the exception of the United States delegation which abstained

from voting) the Czechoslovak proposal for the calling of a joint political conference of the Governments of India and Pakistan. The Commission looked at this important step of mediation with so much mistrust that on the same day, in its afternoon session, it also passed (the Czechoslovak delegation abstaining) the United States delegation's proposal " of arbitration proceedings for a Truce Agreement, for which the Governments of India and Pakistan were recommended to accept as arbitrator, Admiral of the Fleet Chester W. Nimitz " (Dr. Chyle's Report). The reason given for passing the arbitration proposals of the United States delegation, as stated by Dr. Chyle in his report, was

"the much stressed anxiety that the joint political conference might end in failure and that, in order to save time, it was necessary to have a new proposal in readiness."

The Commission sent its chairman, Mr. Sampher, to New Delhi and Karachi to sound the two Governments on the convening of a joint political conference. Both the Governments accepted in principle the procedure of calling a joint conference. A formal invitation together with a provisional agenda was sent on August 19, asking the representatives of the two Governments to meet in New Delhi on August 17.

The Government of India asked for a postponement of the proposed date of the conference to August 22. This was accepted both by the Commission and the Government of Pakistan.

The Government of India requested the Commission to place on the agenda of the proposed conference the following two items which, they considered, were absolutely essential in arriving at a truce agreement :

1. Measures for disarming and disbanding the "Azad Kashmir" forces;
2. Question of effective discharge of the responsibility of administration by the Jammu and Kashmir Government and that of defence, by the Government of India, of the sparsely-populated and mountainous regions of the Jammu and Kashmir State in the north.

The Pakistan Government, on the other hand, wrote to the Commission that these two items, " being

extraneous to the August 13th resolution ", should not be placed on the agenda of the joint political conference of the two Governments.

Meanwhile preparations for holding the conference in New Delhi were set afoot. India nominated Mr. N. Gopalaswami Ayyangar as its representative. He was to be assisted by Sir Girja Shankar Bajpai. Pakistan appointed Sir Mohammad Zafrullah Khan as the leader of its delegation.

To the surprise of India and Pakistan, the Commission informed both the Governments, on August 18, that it had decided to withdraw its invitation for calling a joint political conference.

The Commission explained the cancellation of the proposed conference on the grounds that the two Governments had not agreed on the agenda.

" The Foreign Minister of Pakistan ", Dr. Chyle stated in his report, " informed the Chairman of the Commission on August 29, 1949, in Karachi . . . . that the Pakistan Government was greatly surprised that the Commission has cancelled the Conference. Something to the like effect was also said on August 30, 1949, in New Delhi to the Chairman of the Commission and its principal Secretary by a representative of the Indian Ministry of Foreign Affairs and, two days later, by the Prime Minister of the Indian Government, Pandit Nehru, who manifested great astonishment and expressed disappointment at the decision of the Commission ".

The Commission presented to the Governments of India and Pakistan on August 29, 1949, its memorandum on arbitration. The memorandum stated that the two Governments agree to " submit to arbitration the differences existing between them concerning all questions raised by them regarding the implementation of Part II of the resolution of August 13, 1949 ". Fleet Admiral Chester W. Nimitz was recommended by the Commission to be the arbitrator. The Commission

stated that the course of arbitration had been proposed "as an effective means of overcoming the obstacles which have so far stood in the way of the implementation of the Truce Agreement".

Two days after the memorandum was sent to Karachi and New Delhi, President Truman and Prime Minister Attlee wrote to the Prime Ministers of India and Pakistan to subject their points of dispute to arbitration. Dr. Chyle revealed to the Security Council that "the intervention by President Truman and Prime Minister Attlee was only made possible on the basis of precise and timely information emanating from the Commission itself". He also disclosed that a secret memorandum of the Commission on arbitration had got "into the hands of the British High Commissioners in New Delhi and Karachi at the same time, or earlier than it could be officially presented to the Government of India". From this Dr. Chyle had come to the conclusion that the "Commission was not free from outside influences, although it was to act only according to the mandate of the Security Council in the interests of the United Nations Organisation as a whole".

The Government of Pakistan accepted the Commission's suggestion of submitting their points of dispute to arbitration. But the Government of India rejected it. In his letter of September 8 to the chairman of the Commission, Sir Girja Shankar Bajpai explained that the outstanding issue of the large-scale disbanding and disarming of the "Azad Kashmir" forces could not be a matter for arbitration "but for affirmative and immediate decision." The disbanding and disarming of these forces, which Dr. Lozano had disclosed in the course of his conversation with the Prime Minister of India on December 20 and 22 to be the intention of the Commission, was absolutely essential for the holding of a free and impartial plebiscite. If the arbitrator was free to decide that there should be no disbanding and disarming of these forces, there could be no fair and impartial plebiscite. Sir

Girja Shankar Bajpai therefore informed the Commission that the Government of India's main objection to the suggestion of arbitration was that the "principal issue is one which cannot be solved by arbitration".

The Government of India made it clear to the Commission that they, while being unable to agree to the course of action suggested in the memorandum, were not opposed to arbitration in principle.

The Commission's arbitration proposal and President Truman and Prime Minister Attlee's letter to Pandit Nehru and Mr. Liaqat Ali Khan evoked bitter indignation and loud protests in Kashmir. Addressing the Annual Session of the All-Jammu and Kashmir National Conference in September, 1948, Sheikh Mohammad Abdullah said :—

"I have no doubt in my mind that the suggestion of arbitration carried within itself greater possibilities of conflict in the future than any other issue which has provoked the violation of peace so far. We do not want to shut our eyes to realities and forget history itself. We frankly feel that arbitration means nothing else but appeasement of the aggressor."

The All-Jammu and Kashmir National Conference, in a resolution passed at its annual session on September 25, 1949, declared that the proposal of arbitration was yet another device to rob the people of Kashmir of justice and to appease the aggressor. The National Conference, affirming its faith in the fundamental right of the people to decide their future of their own free will, was determined not to allow any individual, however, high his standing may be, to decide the destiny of the four million people of the State. The Conference viewed the arbitration offer of President Truman and Prime Minister Attlee with doubt and suspicion.

The Commission, having failed in its efforts, decided to report the matter back to the Security Council. It, therefore, left for Geneva on August 25, 1949, to write its report for submission to the Council.



While the Commission was writing its report in Geneva, General Delvoie, Military Adviser to the Commission, removed seven boxes, containing jewellery and gold, from the safe deposit of a Srinagar bank to Rawalpindi, in Pakistan, in a United Nations plane without informing the State Government. The boxes belonged to Prince A. R. Effendi who, for having helped the "Azad Kashmir" Government, had been declared an enemy agent by the Jammu and Kashmir Government. The Governments of India and Kashmir took a serious view of this breach of diplomatic privilege. General Delvoie later on admitted that he had removed the property to Rawalpindi. He was subsequently recalled by the United Nations and left India on November 8, 1949.

## COMMISSION'S DEPARTURE

THE United Nations Commission for India and Pakistan reported its failure to the Security Council on December 12, 1949. It submitted a detailed and comprehensive report to the Council. The report analysed the positions of India and Pakistan with respect to some general problems, the question of the "Azad Kashmir" forces, the withdrawal of forces from the State and the issue of the sparsely-populated and mountainous areas of the north.

*Indian Position*

"India", the Report stated, "considers herself to be in legal possession of Jammu and Kashmir by virtue of the Instrument of Accession of October, 1947. From the fact of accession flows India's claim to be responsible for the security of the State. A plebiscite in the State would be for the purpose of confirming the accession which is, in all respects, already complete. The cardinal feature of India's position is her contention that she is in Kashmir by rights and that Pakistan cannot aspire to equal footing with India in the contest".

*Pakistan Position*

"Pakistan", the report further stated, "bases its case on the contention that the accession of the State to India is illegal. The State of Jammu and Kashmir had executed a Standstill Agreement on August 15, 1947, with Pakistan, which debarred the State from entering into any kind of negotiations or agreement with any other country. The act of accession was brought about by violence and fraud, and as such it was invalid. The entry of Pakistan forces into Kashmir was necessary in order to protect her own territory from the invasion of the Indian forces".

### ***The "Azad Kashmir" Forces***

Discussing the Government of India's demand for disbanding and disarming these forces, the Report added :—

"Azad Kashmir forces number some 32 well-equipped battalions . . . Units of the Pakistan Army itself are present in 'Azad Kashmir' and have operated in the closest co-operation with the local forces. There is indeed no doubt that the 'Azad' forces now have a strength which changes the military situation and to that extent makes the withdrawal of forces, particularly those of India, a far more difficult matter to arrange within a structure with only the regular forces of two armies."

### ***Withdrawal of Forces***

"The conclusion to be drawn from the experience of the Commission during the past year, and from the attitude of the two Governments as regards the withdrawal problem, is clear ; developments in the State during the past year necessitate a modification in its original plan of de-militarisation as a whole, eliminating all distinctions and comprising all questions concerning the final disposal of all armed forces in the State of Jammu and Kashmir".

### ***The Sparsely-Populated and Mountainous Areas in the North of the State***

"The situation in the northern area today is such that the posting of garrisons by the Indian Army, at points beyond those which are now held by it, would result in an extension of military activities by the Government of India, although it need not necessarily imply an increase in military potential which both Governments have agreed is not to take place on either side"

Concluding the report, the Commission expressed doubt "whether a five-member body is the most flexible and desirable instrument" to execute the task of mediation. The Commission was of the view that "a single person can now more effectively conduct the negotia-

tions which, to be successful, must be carried out in active and constant consultation with the two parties."

The Commission made the following recommendations :—

1. The Security Council should designate as its representative a single individual who would proceed to the Sub-continent with "broad authority from the Council to endeavour to bring the two Governments together on all unresolved issues."
2. The Security Council should consult with the representatives of the Governments of India and Pakistan in order to arrive at the terms of reference for its representative, including consultation regarding the scope of this authority, to settle eventually by arbitration the outstanding issues which impede the creation of conditions for the holding of the plebiscite.
3. The two Governments should take all precautions to secure that their agreements regarding the cease-fire are observed and that they abstain from any measure liable to "augment any tension in the State of Jammu and Kashmir."

The Commission's report to the Security Council was signed by only four members : Carlos A. (Argentina), Robert Van De Kerchove D'Hallebast (Belgium), Herando Sompher (Columbia) and Robert B. Macatee (United States of America). Dr. Oldrich Chyle (Czechoslovakia) submitted a minority report on December 12, 1949.

Dr. Oldrich Chyle stated in his Report to the Security Council that "the Czechoslovak delegation co-operated to the full extent with the Commission to achieve a solution of the Kashmir problem, and in presenting its views in a separate report it wishes to throw light on those phases of the Commission's mediation efforts where the majority report lacks to state clearly the reasons of the failure".

That the Commission did not contribute in a constructive way to a positive solution of the whole problem is evident from the following facts.

1. "The Commission had made a serious mistake in that it cancelled the joint political conference which had been convened with the assent of both Governments for August 22, 1948, at New Delhi.
2. "By its unauthorised proposal for the arbitration of the Truce Agreement, it overstepped its terms of reference;
3. "The secret arbitration offer of the Commission was, before being presented to the Governments of India and Pakistan, placed at the disposal of the Governments of the U.S.A. and the U.K., and President Truman and Prime Minister Attlee, in synchronised action, made use of it for public interventionary pressure;
4. "The verbatim text of the secret arbitration memorandum came into the hands of the British High Commissioners in New Delhi and Karachi at the same time or even sooner than it was officially presented to the Indian Government, without even an attempt on the part of the Commission—despite urging by its Chairman at that time—to institute due investigation of both cases of a flagrant breach of the integrity of the Commission's proceedings;
5. "The Commission did not show sufficient sagacity when presenting its basic proposal of a solution of the Kashmir problem; the proposal which was adopted as the resolution of August 13, 1948, in which the Commission deeply under-rated the significance of the 'Azad Forces' and failed altogether to take into account the situation in the 'Northern Area', on which two problems subsequently all the Commission's work kept on foundering;
6. "The Commission did not succeed in winning over the public confidence on either side and on the contrary left the Sub-continent charged by the Press, both before the conclusion of its labours and after its departure, of pusillanimity and even of double dealing."

"The failure of the Commission's mission", the Czechoslovak minority report stated, "is, therefore, not solely ascribable to the intransigence of the Governments of India and Pakistan . . . . The reasons must be also looked for in the activities of the Commission '*per se*', with a proper light thrown on the substance of the whole problem of Kashmir."

Referring to that part of the Commission's report which set forth (i) the disposal of the "Azad Kashmir" forces, (ii) the withdrawal of regular forces from the State and (iii) the question of defence of the northern areas as the main objects in reaching an agreement, Dr. Chyle stated:—

"The reasons for the insolubility of these problems must be sought justly in the shortcomings of the resolution of August 13, 1948, in its Part . . . there is no mention whatsoever of 'Azad Forces', because the Commission did not assume the cease-fire line would be of such long duration.

"The 'Azad Kashmir' forces meanwhile grew by the spring of 1949 into 32 disciplined and fully-armed battalions, which according to an evaluation by the Military Adviser of the Commission represent a 'formidable force'. Owing to this fact . . . the situation has materially undergone an absolute change and so a new problem is created as to what, within the meaning of the resolution, represents the 'bulk' of the Indian Army in Kashmir'. From this have arisen logically further difficulties concerning the disarming of the 'Azad Forces' and the synchronisation of the withdrawal of military troops.

"Similarly, due to the lack of sagacity on the part of the Commission, the situation was rendered more difficult also for the solution of the other main problem of the 'Northern Area'".

The report further stated that since May, 1949, "there appeared in the Press of the U.S.A. frequent notices of the shortly-expected arrival of Admiral Chester W. Nimitz in the Sub-continent. And at the beginning of June, 1949, the American Press brought the news — said to be emanating from Lake Success — that the Commission would take the road of arbitration. This was published, the Czechoslovak report added, a day before the American delegate actually placed before the Commission his proposal on arbitration. On August 23, 1949, *The Press Trust of India* transmitted from Lake Success an article headlined: "Kashmir Deadlock May be Referred to Arbitration". The Commission considered it an interference with its work and prestige, and it was decided to address a

telegram to the Security Council President, asking that the General-Secretary should be requested to issue a statement "stressing that it lay with the Commission itself to decide what action it should take and counter thus the impression that the Commission derived initiative from the Press or any other sources" (Dr. Chyle's report).

But, Mr. Cordel, a member of the United Nations Secretariat, withheld the cabled protest of the Chairman of the Commission (at the time a Czechoslovak delegate) to the Chairman of the Security Council, who at that time was a Soviet delegate. Bringing this to the notice of the Security Council, the Czechoslovak delegation stated:

"In this connection it should be particularly stressed that this interference of the Secretariat with the competence of the Commission and the Security Council at the same time exactly coincided with the time of the Anglo-American intervention, which was carried out on August 31, 1949."

Dr. Oldrich Chyle made the following recommendations to the Council:—

1. The new mediation organ "must be really independent and untrammelled by outside interference."
2. "A guarantee of full independence would be enjoyed by a Commission consisting of representatives of all members of the Security Council."

The Security Council took up the Kashmir issue for consideration on December 17, 1949. Two reports were now before the Council: The Commission's majority report and Dr. Chyle's minority report. The Indian delegation to the Security Council was headed by Sir B. N. Rau. It included Sheikh Mohammad Abdullah and Sir Girja Shankar Bajpai. Mr. M. A. Gurmani led the Pakistan delegation.

Speaking in the Council, Dr. Arne Sunde, Norway's representative, suggested :

"That the President should meet informally the two parties and find a mutually satisfactory way of dealing with the Kashmir problem. He should then report to the Council any proposal which might develop during the negotiations with the parties."

Dr. Sunde's suggestion was supported by Britain and France. It was then put to the vote and was carried through with nine in favour, and Soviet Russia and the Ukraine abstaining.

General McNaughten, the Security Council President, was accordingly asked to hold talks with the representatives of India and Pakistan. The General started these talks on December 18.

General McNaughten presented his proposals when the Security Council met on December 29. The Council President proposed:

1. "That there should be an agreed programme of progressive reduction of armed forces on either side of the cease-fire line by withdrawal, disbandment and disarmament in such stages as not to cause fear to the people on either side of the cease-fire line";
2. "That the programme of demilitarisation should include the withdrawal from the State of Jammu and Kashmir of the regular forces of Pakistan, and the withdrawal of the regular forces of India not required for the purposes of security and for the maintenance of local law and order on the Indian side of the cease-fire line; also the reduction by disbanding local forces, including on the one side the armed forces and militia of the State of Kashmir and, on the other, the 'Azad subject to United Nations supervision, be continued by the existing local authorities';
3. That the administration of the northern area should, Forces'";
4. That "when the agreed programme of demilitarisation preparatory to the plebiscite has been accomplished to the satisfaction of the United Nations Representative, the Plebiscite Administrator should proceed forthwith to exercise the functions assigned to him under the terms of the UNCIP resolution of January 5, 1949."
5. That a United Nations Representative should be appointed by the Secretary-General of the United Nations to supervise the execution of demilitarisation.

These proposals, first presented to the Indian and Pakistan representatives on December 22, were described as "eminently just and fair" by the delegates of Norway, the U.K., the United States and France.



Sir Alexander Cadogan, the British delegate, said that the proposals "correspond broadly to the views of all well-disposed observers to the Kashmir scene" and hoped it would lead to "a fair and equitable settlement". He thought that "in regard to the question of the northern area, my Government is impressed by the Commission's report that the entry of Indian forces into the area north of the cease-fire line would almost inevitably lead to a renewal of hostilities". Mr. Ernest Gross (U.S.A.) said that the McNaughten proposals offered a fair and reasonable approach to the problem. Dr. Tsiang, of Kuomintang China, welcomed the proposals and hoped to see the present procedure continued by General McNaughten even after the expiry of his term of office.

The Soviet representative, M. Jacob Malik, opposed General McNaughten's suggestion that a United Nations representative be appointed by the Secretary-General of the United Nations to supervise the demilitarisation programme. He said this would be contrary to the United Nations Charter and established usages, as well as contrary to the rules of procedure. The Security Council had obligations to concern itself with matters of peace and security, and, therefore, had to appoint necessary bodies, he added. The Council, M. Malik said, should not transfer or delegate these functions.

M. Malik also took strong objection to the suggestion made in General McNaughten's proposals that the Plebiscite Administrator, Admiral Nimitz, should exercise the functions assigned to him under the terms of the Kashmir Commission's resolution of January 5, 1949. This, he said, would be tantamount to overstepping the powers of the Security Council which must decide the powers of the Administrator.

Referring to the Norwegian proposal for continuation of General McNaughten's functions after the expiry of the term of membership of Canada, M. Malik said this would be "an unheard of" precedent and

contrary to the spirit of the Charter. He explained that it would definitely violate the Charter and the Security Council rules of procedure:

"Recently the United Nations Charter has been so often violated, that we do not want to be a party to a new violation. Those of us who respect the United Nations Charter cannot possibly support this proposal. I know that the majority is sovereign in this Council and that its point of view is likely to be carried. But, notwithstanding the result, we cannot consider this as a precedent for the future."

Defining his attitude to the McNaughten proposals, the Soviet representative said that these should be judged by the interested parties. Otherwise, the Council might place itself in an embarrassing position.

"Therefore, the Soviet delegation considers that the opinion of the parties affected is not a secondary matter. It is of great importance."

The Security Council adopted the Norwegian proposal, despite the Soviet warning that it would amount to a violation of the United Nations Charter. Accordingly, General McNaughten started conducting talks with the representatives of India and Pakistan. He submitted his report to the Security Council on February 7, 1950. The report included the replies of India and Pakistan to the demilitarisation proposal of December 22, the amendments suggested by both the Governments to the proposals, and General McNaughten's own remarks in which he had frankly confessed that "I do not believe that further activity on my part would serve any useful purpose".

Sir B. N. Rau, in a speech in the Security Council on February 7, 1950, explained elaborately India's stand on Kashmir and enumerated the numerous obstacles that Pakistan had been putting up in the way of holding an early plebiscite in Kashmir.

Referring to the McNaughten proposals, Sir B. N. Rau said that under these proposals:

- (i) "the sovereignty of the Jammu and Kashmir State is eliminated in fact from the areas on the other side of

the cease-fire line, in other words from nearly one-half of the entire area of the State;

- (ii) "the administration of these areas by the existing local authorities—an expression interpreted in some quarters as the 'Azad Government' authorities—is recognised;
- (iii) "the consolidation effected by Pakistan troops to the detriment of the State is allowed to remain;
- (iv) "the disarming and disbanding of the 'Azad Forces' is neutralised by similar disarming and disbanding of the State Forces and the State Militia; and
- (v) "the claim made by the Government of India in respect of the northern areas is dismissed".

"Thus the net effect of the proposals", Sir B. N. Rau added, "is to eliminate or neutralise every one of the assurances relied upon by India". India, therefore, was not in a position to accept the proposals "as they stand".

India therefore proposed two main amendments (which were not acceptable to Pakistan), besides a few clarificatory or consequential ones. The two principal amendments were :

1. The programme of demilitarisation should include the withdrawal from the State of Jammu and Kashmir of the regular and irregular forces of Pakistan; the disbanding and disarming of the "Azad Kashmir forces"; and the withdrawal of the regular forces of India not required for purposes of security or for the maintenance of local law and order on the Indian side of the cease-fire line.
2. After the withdrawal of Pakistan forces referred to above the responsibility for the defence of the "Northern Area" shall vest in the Government of India, and that of administration in the Government of Jammu and Kashmir.

The Security Council President, Dr. Carlos Blanco (Cuba), introduced a resolution in the Council on February 24, 1950. The resolution was sponsored by the U.S.A., Britain, Norway and Cuba. It provided for the termination of the United Nations Commission for India and Pakistan and for appointing a United Nations representative to take over its powers and responsibilities in Kashmir. The resolution stated:

"The Security Council calls upon the Governments of India and Pakistan to make immediate arrangements, without prejudice to their rights or claims and with due regard to the requirements of law and order, to prepare and execute within a period of five months a programme of demilitarisation on the basis of the principles of General McNaughten's proposals or of such modification of these principles as may be mutually agreed upon."

It further provided that the United Nations Representative would assist in the preparation and supervision of the implementation of the programme of demilitarisation.

Sir Terence Shone (Britain) explained the provisions of the resolution on behalf of its sponsors. He said that the programme of demilitarisation could best proceed on the basis of the McNaughten proposals and that the programme of demilitarisation should be dealt with as a whole and accomplished within a single period. It should embrace all the areas of the State, including the northern areas. Sir Terence Shone stated clearly that, while the intention is to follow broadly the lines indicated by General McNaughten, the U.N. Representative will be left with a certain amount of discretion to adjust his course in the light of any fresh consideration.

Regarding the administration of the northern areas, the sponsors had assumed that there could be no question of making any change in the civil administration of those areas. The sponsors believed that "any change would involve the risk of an extension of military activity".

The British delegate said that the U.N. Representative could make "any suggestions which, in his opinion, are likely to contribute to the expeditious solution of the dispute".

Speaking on the resolution, Sir B. N. Rau said that the views of the Government of India on the McNaughten proposals were explained by him to the Security Council on February 7. He told the Council that the

person chosen as United Nations Representative should be acceptable to his Government.

The Security Council adopted the Four Power resolution on March 14 1950, with a majority vote, India and Yugoslavia abstaining. The Soviet Union was not represented.

After the resolution was passed, Sir B. N. Rau made it clear that the Government of India had accepted the resolution, subject to their reservation made with respect to the McNaughten proposals. Sir Mohammad Zafrullah Khan, on the other hand, stated that the attitude of the Pakistan Government with regard to the resolution was that it was based on the McNaughten proposals.

## THE DIXON PLAN

**T**HE Security Council appointed Sir Owen Dixon, a judge of the Australian High Court, as United Nations Representative in Kashmir. Earlier, to the suggestion of the name of this 61-year-old judge, the sponsors of the Four Power resolution had proposed the names of Admiral Chester Nimitz and Dr. Ralph Bunche which were not accepted by the Government of India.

Sir Owen Dixon arrived in the Indian Sub-continent on May 27, 1950. Immediately upon his arrival, he plunged himself in to negotiations with the Prime Ministers of India and Pakistan. He undertook a tour of Jammu and Kashmir State, including the territories occupied by Pakistan. In July he called a conference of the Prime Ministers of India and Pakistan, which was held in New Delhi from July 20 to July 24. The conference proved inconclusive. The next meeting was proposed to be held in Karachi. A joint communique issued on July 24 stated that "the solution of the Kashmir problem was approached" in the conference according to certain principles, and various possible applications of those principles were very fully discussed. In the course of discussions certain additional aspects of the problem were mentioned which needed further examination. After the failure of this conference Sir Owen Dixon again held discussions with the Prime Ministers of India and Pakistan, in New Delhi and Karachi respectively.

On August 22, he announced that he had come to the conclusion that there was no immediate prospect of India and Pakistan composing their differences over the State of Jammu and Kashmir and that he would shortly report to the Security Council.

Sir Owen Dixon disclosed that during the tripartite talks in New Delhi he had suggested to the two Prime Ministers other possible solutions which did not involve an over-all plebiscite. One of these was that "wherever the desires of the inhabitants are known, the territory should be partitioned between India and Pakistan in accordance with those desires, due regard, however, being given to geographical, economic, topographical and demographical considerations. But where the desires of the people were unknown, there a plebiscite should be held for the purpose of ascertaining them. The voting would be confined to that area". The United Nations Mediator expressed hope that India and Pakistan would be able to solve their differences by negotiation. Sir Owen Dixon left the Sub-continent for Europe on August 24.

He presented his report to the Security Council on September 15, 1950. After giving a detailed account of his activities in the Sub-continent, Sir Owen Dixon stated:

"I was prepared to adopt the view that when the frontier of the State of Jammu and Kashmir was crossed, on, I believe, October 20, 1947, by hostile elements, it was contrary to international law, and that when in May, 1948, as I believe, units of the regular Pakistan forces moved into the territory of the State, that, too, was inconsistent with international law."

Since Pakistan had committed an act of aggression against Jammu and Kashmir State, the United Nations Mediator had therefore proposed that "the first step in demilitarisation should consist in the withdrawal of the Pakistan regular forces, commencing on a named day". After fixing a time for the withdrawal of the forces of the Pakistan army, the parties would, according to the Mediator's proposal, "fix so many days, from the commencement of such withdrawal, for India to begin the removal of the armed forces in the area east and south of the cease-fire line". The Mediator asked for;

1. The withdrawal of the Indian army;

2. The withdrawal or disarming and disbandment of the Jammu and Kashmir State forces;
3. The disarming and disbandment of the Jammu and Kashmir State militia.

On the other side of the cease-fire line, Sir Owen Dixon proposed "that Pakistan would commence to disarm and disband (i) the Azad Kashmir forces and (ii) the Northern Scouts". He suggested "that the foregoing operations on each side should be divided into phases and that plans should be prepared for the carrying out of each phase by the respective Chiefs of Staff."

Regarding the forces that India and Pakistan needed on their respective sides of the cease-fire line after demilitarisation and pending the plebiscite, the Mediator stated:

"This should be determined according to purpose. The presence of armed forces during the period preceding the taking of the vote and while it was being taken tended against the independence of voting and the fairness of the poll and the number of troops should therefore be as small as possible. I suggested that if the purpose was defined for which armed forces were needed it would then become a matter for the Chiefs of Staff, in consultation with my Military Adviser, to agree on the forces to be used and their disposition."

The Prime Minister of India rejected this plan on the following grounds as stated by Sir Owen Dixon in his report:

1. "The possibility of Pakistan making an attack, notwithstanding the withdrawal of her forces and notwithstanding any assurance she might give, must be taken into account amongst other dangers for which India might need forces on her side of the cease-fire line pending the plebiscite."
2. "The need for protecting the area against the incursion of marauders or more serious dangers could not be limited to specific approaches."
3. The militia could not be disarmed or disbanded "without prejudicing the organisation of the State. It was a thing India would not ask the State to do."

As for the administration in the areas occupied by Pakistan, the United Nations Mediator stated that he had forwarded the following proposal:



"The administration of the services of Government would proceed according to the law and custom of the State as existing before the trouble arose. It would be carried on by the person now holding or assumed to hold the offices of District Magistrate or subordinate offices. . . . An officer of the United Nations would be attached to every District Magistrate. His powers would be of supervision and he would report to the United Nations Representative, or his delegate, who would take what steps he considered desirable."

This plan was rejected by the Prime Minister of India on the ground "that it recognised existing District Magistrates and subordinate officers and that, in the period since the trouble arose, men had been appointed to replace the former officers and that they or some of them were, or might be, repugnant to India."

For the northern areas as well, Sir Owen Dixon put forward a proposal. This proposal was "to appoint Political Agents representing the United Nations and to vest authority in them". These political Agents, unlike the existing Assistant Political Agents, were to be "appointed by or under the authority of the Security Council of the United Nations, after consultation with India and Pakistan."

To this solution of the administration of the northern areas, the Prime Minister of India objected on the following grounds as stated by Sir Owen Dixon:

1. "That existing officers appointed by Pakistan were of a character which India could not countenance.
2. "That any consultation with Pakistan recognized her title to be in the northern areas.
3. "That the Political Agents representing the United Nations would be necessarily guided by existing administrative officers and would be unable effectively to insure fairness, etc.
4. "That in any event India must place garrisons or military posts in certain places on the northern side of the cease-fire line."

Regarding the administration of this side of the cease-fire line, i.e., where the lawful government of Sheikh Mohammad Abdullah functions, Sir Owen

Dixon made the proposal of attaching a United Nations Officer with each District Magistrate, who would be "entitled to see the administration records and proceedings of the District Magistrate and all officers subordinate to the Magistrate", and whose duties would include "observation, inspection, remonstrance and report". The proposal imposed restrictions on the powers of the District Magistrate who, "without the prior consent in writing of the United Nations Officer", could not issue a warrant or order for the arrest of any person.

This plan was rejected by the Prime Minister of India because it "involved an interference with the integrity of the functions of the State and an impairment of the powers of arrest, which might prove dangerous in the case of subversive elements and of persons seeking to take advantage of the situation to stir up communal strife and violence".

Sir Owen Dixon disclosed that he had put forward the following three plans "for bringing into existence, for the plebiscite period, a single government for the whole State".

1. A coalition Government be set up by a meeting of Sheikh Mohammad Abdullah and Mr. Ghulam Abbas, the head of the so-called "Azad Kashmir Government", or "by placing certain portfolios at the disposal of the respective parties."
2. An administration for the entire State, "composed of trusted persons outside politics holding high judicial or administrative office and commanding general confidence", be constituted. The Chairman of this administration would be appointed by the United Nations and, of the other members, half would represent Hindus and half Muslims. The existing Ministers would be "relieved of their responsibilities."
3. It differed from the second plan "only in the constitution of the administrative body. It was to be constituted altogether of United Nations representatives."

As an alternative to an over-all plebiscite, the United Nations Mediator put the following two suggestions to the Prime Ministers of India and Pakistan:

1. A plebiscite be taken "by sections or areas" and "the allocation of each section or area" be made according to the result of the vote.
2. Without holding a plebiscite, areas certain to vote for India and those certain to vote for Pakistan "be allotted accordingly and the plebiscite to be confined only to the uncertain area". The "uncertain area", according to Sir Owen Dixon, appeared to be the "Vale of Kashmir and perhaps some adjacent country."

The Prime Minister of Pakistan "protested against the course proposed, on the ground that it meant breach on India's part of the agreement that the destinies of the State of Jammu and Kashmir as a whole should be decided by a single plebiscite taken over the entire State".

The Government of India, on the other hand, had informed the Mediator "that they would be prepared to discuss a settlement of the Kashmir dispute on the basis of certain principles". The principles were, first, "that areas of the State of Jammu and Kashmir, where there is no apparent doubt as to the wishes of the people in those area, should go to India or Pakistan without a plebiscite; secondly, that the plebiscite should be limited to those areas where there is doubt as to the result of the voting; and thirdly, that the demarcation should have due regard to geographical features and to the requirements of an international boundary".

The United Nations Mediator put forward another plan as, he stated, "a last possibility of saving the situation". The plan was one of "holding a partial plebiscite in a limited area including or consisting of the Valley of Kashmir and of partitioning the remainder of the State." Sir Owen Dixon wanted to set up in the limited plebiscite area an administrative body consisting of United Nations Officers. The Plebiscite Administrator, according to this plan, would be at the head of the body. The administrative body was to have powers "to exclude troops of every description". "If on the other hand", the Mediator stated, "they decided that for any purpose troops were necessary, they could request the parties to provide them".

This last provision of setting up a United Nations administration in the limited plebiscite area, which included the Valley of Kashmir, was emphatically refused by the Prime Minister of India. The objections to this provision raised by him were stated by Sir Owen Dixon to be as follows:

1. "Pakistan is an aggressor and it would be only to surrender to aggression to allow her to take any part in the plebiscite. For the same reason and because of the danger involved, Pakistan troops can never be allowed to enter the plebiscite area and, therefore, it was impossible to countenance the proposal to enable the administrative body to request the parties to provide the troops, if it thinks them necessary."
2. "The provision would mean that the Government of the State would be superseded and went far beyond what is necessary for the purpose in view."
3. "Only those people who belong to the State of Jammu and Kashmir should be allowed any part in the 'campaign' over the plebiscite. There can be no equality of any right between India and Pakistan in this or other relevant respects."
4. "The security of the State would be endangered."

Discussing the circumstances which called for a decision on the part of the Mediator to turn away from a plebiscite of the whole State, Sir Owen Dixon stated that "partition of the whole State between the two countries is of course an obvious alternative". Regarding the Valley of Kashmir, he suggested that a "poll of the inhabitants be taken".

The United Nations Mediator was of the opinion that, in the event of an over-all plebiscite, large movements of Muslims would take place if the State accedes to India; and, if it decides to accede to Pakistan, a refugee problem for India would arise out of the movement of Hindus and Sikhs. This, according to Sir Owen Dixon, could be avoided by partitioning the State.

"The interest of the people, the justice as well as the permanence of the settlement, and the imperative necessity of avoiding another refugee problem all point to the wisdom

of adopting partition as the principle of settlement and of abandoning that of an over-all plebiscite." (Sir Owen Dixon's Report to the Security Council.)

Concluding his report, Sir Owen Dixon suggested that the initiative should now pass back to India and Pakistan. But he could not "recommend any further course of action on the part of the Security Council for the purpose of assisting the parties to settle between them how the State of Jammu and Kashmir is to be disposed of".

The Prime Minister of India held a press conference on Kashmir immediately after the release of Sir Owen Dixon's report. He stated that the U.N. Mediator's "astonishing proposal" of transferring the Kashmir Government to a United Nations authority had taken the Government of India by surprise and had therefore been rejected.

Discussing the question of demilitarisation, the Prime Minister told pressmen that "at no time was it suggested that the question of the withdrawal of Pakistan troops and ours was on the same level". The withdrawal by India of all her troops was never suggested, not even by the Commission, "because it was recognised that the defence of Kashmir was our responsibility".

The Prime Minister strongly opposed Sir Owen Dixon's proposal of supersession of the Kashmir Government and of bringing in Pakistan troops in the Kashmir Valley. He made it clear that the Government of India would never consider such a proposal, whatever the consequences might be. This proposal, the Prime Minister added, was "a negation of all that we had stood for and a betrayal of the people of Kashmir to whom we had pledged ourselves".

Opposing the U.N. Mediator's argument that this proposal, if effected, would ensure a fair plebiscite, the Prime Minister said that it would make the plebiscite "grossly unfair from the commencement". "The suppression of the present Government of Kashmir", the Premier added, "would have dangerous conse-

quences in the State as well as in India and would be a major victory for aggression and a surrender by us of what we had repeatedly proclaimed we stood for."

Sir Owen Dixon's proposal for administering the northern areas was unacceptable to India because it contemplated that existing administrative officers in those areas, whom Pakistan had appointed, should continue to function. "This would have meant", the Premier stated, "recognition of Pakistan's right, by virtue of her aggression, to retain, in the northern areas, officers who have not only not been appointed by the lawful Government, but who must, according to the circumstances, be repugnant to that Government."

The Prime Minister stated that the U.N. Mediator's proposal for forming a coalition Government in Kashmir was rejected by him as impracticable, "owing to the impossibility of combining, in an effective Government, persons so opposed to one another in outlook and background as Sheikh Abdullah and Mr. Ghulam Abbas."

## THE HISTORIC DECISION AND THE SECURITY COUNCIL

**T**HE General Council of the All-Jammu and Kashmir National Conference was called to session on October 27, 1950, to discuss the Dixon Report. The Council, after examining the report, arrived at the conclusion that it (the report) "suggests methods of dealing with the Kashmir issue, which not only defeat the very objective on which the people of Jammu and Kashmir have placed their faith but, by side-tracking the issue, violates the fundamental principles embodied in the Charter of the United Nations".

The General Council was of the unanimous opinion that the "Dixon Report, while admitting that the armed intervention of Pakistan constitutes a flagrant breach of international law, accords recognition to the aggressor firstly as an equal party and then bestows upon him title to possess the fruits of aggression". "Further", the General Council resolution of October 27 stated, "what the aggressor has not been able to secure by force is being offered to him, by arbitrarily declaring the rest of the territory as under dispute, where conditions are proposed to be imposed as being entirely favourable to the aggressor". The recommendations offered by Sir Owen Dixon for the settlement of the Kashmir question are a clear negation of the right of self-determination of the people of Jammu and Kashmir State.

Voicing its strong opposition to the dismemberment of the State contemplated by the Mediator, the General Council declared that the "territorial integrity of the State must remain inviolate and that, in determining their future, the unity and the organic homogeneity of the people should not be broken into artificial compartments.

"The General Council viewed with great concern the repeated failure of the U.N. to redress the wrongs of aggression of which the people of the State continue to be victims. . . . This failure", the Council's resolution declared, "is due to the continued concessions given to Pakistan by placing a premium on her intransigence."

Announcing the decision to take steps for convening a Constituent Assembly based upon adult suffrage for the purpose of "determining the future shape and affiliations of the State of Jammu and Kashmir", the General Council's resolution further stated:—

"The indecision and unrealistic procedure adopted so far have condemned the people of the State to a life of agonising uncertainty. The All-Jammu and Kashmir National Conference is gravely concerned and cannot any longer afford to ignore the perpetuation of these conditions of doubt and frustration. The time has come when the initiative must be regained by the people to put an end to this indeterminate state of drift and indecision."

In the informal meetings of the Commonwealth Prime Ministers, held in January, 1951, at London, three suggestions were put forward before the Prime Ministers of India and Pakistan for the solution of the Kashmir problem. The three suggestions were:

1. Commonwealth forces other than those of India and Pakistan should be stationed in the State of Jammu and Kashmir before and during the plebiscite to maintain law and order.
2. The Plebiscite Administrator should be vested with supreme authority and the State militia should be disbanded. The Administrator should raise locally forces required for maintaining law and order.
3. Pakistan and India should jointly control the State before and during the plebiscite period.

These suggestions were accepted by Mr. Liaquat Ali Khan, but rejected by Mr. Jawaharlal Nehru.

The Prime Minister of India rejected these suggestions as they were inconsistent with the fundamental principles that the Government of India had been upholding in Kashmir. He emphasised that the



ultimate arbiter in the settlement of this problem would be the people of the State, who must be provided with favourable conditions for liberating themselves from aggression and the threat of aggression.

These suggestions were described by Sheikh Mohammad Abdullah as "astounding" and "humiliating to the people". He stated that the Security Council had shelved the real issues of the Kashmir case during the past three and a half years:

"Unfortunately, in the context of the present international situation the basic issues involved in the settlement of the Kashmir problem have been consistently obscured by extraneous considerations and consequently the fundamental principles at stake have been ignored. The latest tentative suggestions emanating from the informal meeting of some of the Commonwealth Prime Ministers betray once again the coloured outlook that is usually brought to bear upon the solution of our issue."

Analysing these suggestions one by one, the Kashmir Premier stated that the first suggestion, namely, of stationing foreign troops, "is an invitation to foreign powers for back-door entry into the Sub-continent of India." "History has taught us", Sheikh Abdullah stated, "that once foreign troops occupy an area under one pretext or another they come to stay and, in view of the geographical position of Kashmir, such feeling would be justified".

The second suggestion, according to Sheikh Mohammad Abdullah, was "as ridiculous as it is shocking". He stated:

"In spite of Pakistan having been named as an aggressor, a status of equality is being conferred upon her. She is already holding part of the territory of the State unlawfully and this proposal would give her an illegal foothold in the rest of the State."

The Kashmir Prime Minister said that the third suggestion is "proposed to liquidate the legal national authority and hand over power to a foreigner". He made it clear that this suggestion is repugnant to the national dignity of the Kashmiri people. Explaining it further, he stated:

"Such a course of action, if resorted to, would invite chaos and would open explosive possibilities in this part of Asia, too. After the bitter and gruesome experiences of Korea, it is legitimate for the people of the State to fear that planting of another MacArthur on the tender soil of Kashmir would reduce the State to a bitter object of international controversy."

The Security Council met on February 21, 1951, to consider the report of Sir Owen Dixon. A joint resolution on Kashmir was introduced by Britain and the United States of America.

The Anglo-American resolution declared that the convening of a Constituent Assembly, as recommended by the General Council of the All-Jammu and Kashmir National Conference, for the purpose of determining the "future shape and affiliations" of the State, "would not constitute a disposition of the State" in accordance with the principles laid down by the Security Council and the United Nations Kashmir Commission.

The resolution asked the Security Council to accept, in compliance with his request, Sir Owen Dixon's resignation. A United Nations Representative "for India and Pakistan" was proposed to be appointed in succession to Sir Owen Dixon. The Representative was to proceed to the Sub-continent "to effect the demilitarisation of the State of Jammu and Kashmir on the basis of the demilitarisation proposals made by Sir Owen Dixon in his report, with any modifications which the United Nations Representative deems advisable, and to present to the Governments of India and Pakistan detailed plans for carrying out a plebiscite in the State of Jammu and Kashmir".

The Anglo-American resolution called upon the Security Council to "authorise the United Nations Representative to take into account in his discussions with the two Governments and in considering the arrangements for demilitarisation and for the holding of the plebiscite:

- (i) "The report of Sir Owen Dixon;

- (ii) "The possibility that any forces required for the purpose of facilitating demilitarisation and holding of the plebiscite might be provided from Member States of the United Nations, or raised locally;
- (iii) "the possibility that, although the future accession of the State should be decided by the majority of votes cast in a State-wide plebiscite, this should not preclude, provided that due account is taken of geographical and economic considerations, subsequent boundary adjustments in areas contiguous to the frontier of India or Pakistan in which the vote is overwhelmingly in favour of the party with a minority of the votes in the State-wide plebiscite, and
- (iv) "the possibility that, while supervision will be required over the exercise of the functions of Government in the State of Jammu and Kashmir, different degrees of such provision may be appropriate for different areas."

The Resolution also called upon the parties, in the event of their failure to arrive at an agreement, to "accept arbitration upon all outstanding points of difference, such arbitration to be carried out by an arbitrator, or a panel of arbitrators, to be appointed by the International Court of Justice in consultation with the parties."

Moving the joint Anglo-American resolution, Sir Gladwyn Jebb (Britain) said:—

"Further developments in Asia during the ten months since this question was last debated by the Council have clearly demonstrated the urgent need for removing the obstacle to co-operation and mutual assistance between the Governments of India and Pakistan."

Sir Gladwyn opposed the decision of the All-Jammu and Kashmir National Conference to convene a sovereign Constituent Assembly for the Jammu and Kashmir State:

"I feel bound to say on behalf of my delegation that for our part we find it difficult to reconcile the Kashmir National Conference resolution with the agreed form of settlement and my Government have felt some anxiety lest the Kashmir State authorities should embark on independent action which would be a challenge to the authority of the Security Council and of the United Nations as a whole."

Mr. Ernest Gross (U.S.A.) said that he was in full agreement with the view expressed by Sir Gladwyn Jebb on the question of the convening of a Constituent Assembly for Kashmir.

Sir Benegal Rau (India) spoke on the resolution on March 1, 1951. He began with a brief account of the salient facts of the Kashmir case. He told the Council that India's insistence on pledges already given to her, particularly on questions relating to the security of Kashmir, had, in some quarters, been wrongly construed as an attitude of intransigence.

The Indian Representative reiterated the position of the Government of India that, so long as the root-cause of the trouble, namely, the act of aggression committed by Pakistan against the State, continues, there can be no solution to the problem.

Defining the attitude of the Government of India to the Anglo-American resolution, Sir B. N. Rau stated:—

"My Government is wholly unable to accept the draft resolution, because in many respects it runs counter to decisions previously taken by the United Nations Commission with the agreement of the parties."

He told the Council that the draft Anglo-American resolution which instructs the United Nations representative to effect demilitarisation on the basis of Sir Owen Dixon's report, runs counter to that provision of the Commission's resolution of August, 1948, by virtue of which Pakistan was to withdraw its troops completely from the State and India was to withdraw the bulk of its forces. He therefore informed the Council that the Government of India "is wholly unable to accept these proposals as a basis, nor can it agree to vest a new Representative with the power of decision in so vital a matter."

"The new resolution", Sir Benegal added, "picks out certain parts of previous resolutions, leaving out other parts to which we have throughout attached the greatest importance and which were specifically accept-

ed by the United Nations Commission for India and Pakistan. We are not prepared to go back on all that has been done by the United Nations Commission and subsequently with our agreement."

Sir B. N. Rau opposed the proposal, embodied in the Anglo-American resolution, of stationing foreign troops in Jammu and Kashmir State:

"We are wholly unable to accept any entry of foreign troops in the State or in any other part of India. In view of the provision made by the resolutions of August 1948 and January 1949, there is no occasion for the use of foreign troops or of special local levies recruited by any outside agency."

Concluding his arguments, Sir B. N. Rau stated:

"While my Government stands by all its commitments, it insists that all the commitments made to India contained in the resolutions of the United Nations Commission for India and Pakistan and the connected assurances must also be honoured. The present resolution will unsettle what has already been settled and, if passed, would amount to a repudiation by the Security Council of the United Nations Commission's division previously made with the agreement of the parties and of the commission's assurances given to India."

Sir Mohammad Zafrullah Khan, the Pakistan Foreign Minister, addressed the Security Council on March 6 and 7. He demanded of the Council "to depute an outstanding personality of high repute and standing to bring out the implementation of the international agreement and to carry out its implementation". The Security Council nominee, according to Sir Zafrullah, should be vested with "full power for discharge of his responsibility, including the power to effect demilitarisation by removing or disbanding the military forces of all interested parties and to exercise effective supervision over the functions of Government in the State."

Sir Mohammad Zafrullah asked for a modification of the Anglo-American resolution in the sense indicated above. He stated that the paragraph relating to the possibility of boundary adjustment should

be dropped, as "it would mean a partial partition of the State."

The Pakistan Foreign Minister did not go into details on the draft resolution. He, however, stated that he would do so, should the necessity arise.

The representatives of Britain and the United States of America submitted a revised draft resolution in the Security Council on March 21, 1951.

In the amended resolution, clauses authorising the United Nations Representative to consider the possibility of:

1. stationing foreign troops,
2. making boundary adjustments after the result of the plebiscite is known, and
3. exercising different degrees of supervision for different areas,

were omitted.

The revised draft instructed the U.N. Representative to effect demilitarisation, not on the basis of Sir Owen Dixon's Report, but on the basis of the Commission's resolutions of August 13, 1948, and January 5, 1949.

All other clauses and provisions of the original draft resolution were incorporated in the amended one.

Sir Benegal Narsingh Rau spoke on the amended draft on March 29, 1951. He stated that under the new resolution Pakistan would have a right to be consulted on vital matters affecting the security of the State; and, if Pakistan were not in agreement with India, the point would have to be decided by arbitrators in whose selection Pakistan would again have the right to be consulted. "Thus", Sir B. N. Rau stated, "the draft resolution seeks to re-open, in favour of Pakistan, issues which had been settled by the resolution of August, 1948." Explaining this point in detail, the Indian representative added:—

"First, it seeks to give Pakistan's voice in matters in which Pakistan as an invader of the State had been rightly

denied any voice, which under the old resolution, required India's agreement. These are the new concessions to Pakistan."

Turning to Sir Gladwyn Jebb's statement that he (Sir G. Jebb) was unable to see how the proposed arbitration clause of the amended resolution can threaten the security of India, Sir B. N. Rau stated:—

"I would only ask whether Sir Gladwyn would agree to a proposal that matters of military security vital to the United Kingdom should be decided not by its own Government, nor with its consent, but by arbitrators chosen by somebody else after consultation with the country that has invaded British territory."

For this and other reasons the resolution was not acceptable to the Government of India.

The Indian Representative further stated that the Government of India "had no objection to a new United Nations Representative visiting India and Pakistan, if the Security Council so desires, to make a fresh attempt to assist, by suggestion, advice and mediation in determining how the proposals regarding demilitarisation under the resolutions of August 13, 1948, and January 5, 1949 should be implemented with due regard to the assurances given to my Government in connection therewith." "This", Sir Narsingh Rau added "is of course subject to my Government's views regarding arbitration which I have already explained".

Winding up his arguments, Sir Benegal said that "in effect the revised resolution continues to ignore the basic facts of the situation in Kashmir, and it includes provisions which we have all along made amply clear that we cannot accept".

The joint Anglo-American resolution was adopted by the Security Council on March 30, 1951. Brazil, Kuomintang China, Ecuador, France, Netherlands, Turkey, the U.K. and the U.S.A. voted in favour, none voted against and India, the U.S.S.R. and Yugoslavia abstained from voting. India did not vote as she was a party to the dispute.

The adoption of the Anglo-American resolution by the Security Council led to an outburst of anger and indignation in Jammu and Kashmir State. Huge demonstrations expressing anger against the sponsors of the resolution were held in Srinagar, Jammu and other big towns and cities of the State. Voicing the sentiments of the people of Kashmir, Sheikh Moham-mad Abdullah stated:—

"The draft resolution on Kashmir sponsored by the U.K. and U.S.A. . . . leaves little doubt that certain basic assumptions fundamental to a peaceful and democratic settlement have been sought to be negated. These basic assumptions are in relation to the (1) sovereignty, (2) security, (3) territorial integrity and (4) the popular democratic set-up of the State of Jammu and Kashmir. The resolution suggests the appointment of a Mediator who will develop into a Military Commanding Administrator and become in the final phase even an arbitrator. The very concept of such an authority-wielding person foisted on the State is repugnant to the dignity of a democratic sovereign State."



## THE TWELVE POINTS OF DR. GRAHAM

**T**HE Security Council on April 30, 1951, appointed Dr. Frank Graham as United Nations Representative for India and Pakistan. The voting was 7 in favour (Brazil, Kuomintang China, Ecuador, France, Turkey, the U.K. and the U.S.A.) and four absentions (India, Netherlands, the U.S.S.R. and Yugoslavia).

The Soviet delegate, Mr. Jacob Malik, objected to the appointment of an American as the United Nations Representative in Kashmir. He asked why the Representative was not chosen from the non-permanent members of the United Nations. The Council President over-ruled the Soviet objection.

Dr. Frank Graham left New York for India and Pakistan on June 27, 1951, and arrived in the Sub-continent on June 30.

The U.N. Representative was accompanied by a staff of twelve, among whom General Jacob J. Devers acted as his Military Adviser.

Dr. Frank Graham held many discussions with the Prime Ministers of India and Pakistan at New Delhi and Karachi respectively. He came to the State of Jammu and Kashmir and held discussions with the State Premier, Sheikh Mohammad Abdullah. On September 12, he left the Sub-continent for Geneva to prepare his report to the Security Council.

In his first report presented to the Security Council on October 15, 1951, Dr. Graham stated that "as a result of his conversations with the parties, which continued until the final stages of the mission's stay on the Sub-continent, a formal letter dated September 7, 1951, was despatched by the United Nations Representative to the Prime Ministers of both Governments, containing the text of a draft agreement and inviting their comments on each separate paragraph and their

suggestions and their detailed plans for carrying out the demilitarisation of the State of Jammu and Kashmir under the U.N.C.I.P. resolution of August 13, 1948 and January 5, 1949”.

The text of the draft agreement contained the following twelve proposals:

The Governments of India and Pakistan:

1. "Reaffirm their determination not to resort to force and to adhere to peaceful procedures and specifically pledge themselves that they will not commit aggression or make war, the one against the other, with regard to the question of Jammu and Kashmir.
2. "Agree that each Government, on its part, will instruct its official spokesmen and will urge all its citizens, organisations, publications and radio stations not to make war-like statements or statements calculated to incite the people of either nation to make war against the other with regard to the question of Jammu and Kashmir.
3. "Reaffirm their will to observe the cease-fire effective from January 1, 1949 and the Karachi Agreement of July 27, 1949.
4. "Reaffirm their acceptance of the principle that the question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations.
5. "Agree that, subject to the provisions of paragraph 11 below, the demilitarisation of the State of Jammu and Kashmir contemplated in the UNCIP resolutions of August 13, 1948 and January 5, 1949 shall be effected in a single, continuous process.
6. "Agree that this process of demilitarisation shall be completed during a period of 90 days, unless another period is decided upon by the representatives of the Indian and Pakistan Governments."
7. "Agree that the demilitarisation shall be carried out in such a way that, at the end of the period referred to in paragraph 6 above, the situation will be:
  - A. On the Pakistan Side of the Cease-fire line.
    - (i) the tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn;

- (ii) the Pakistan troops will have been withdrawn from the State, and
- (iii) large-scale disbandment and disarmament of the Azad Kashmir forces will have taken place.

**B. On the Indian Side of the Cease-fire line.**

- (i) the bulk of the Indian forces in the State will have been withdrawn;
- (ii) further withdrawals or reductions, as the case may be, of the Indian and State Armed Forces remaining in the State after the completion of the operation referred to in clause B (i) above will have been carried out;

So that at the end of the period referred to in paragraph 6 above, there will remain on the present Pakistan side of the cease-fire line a force of \_\_\_\_\_\* Civil Armed Forces and on the Indian side of the cease-fire line a force of \_\_\_\_\_\* ”.

8. "Agree that the demilitarisation shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period referred to in paragraph 6 above."
9. "Agree that representatives of the Indian and Pakistan Governments, assisted by their military advisers, will meet, under the auspices of the United Nations, to draw up a programme of demilitarisation in accordance with the provisions of paragraphs 5, 6, 7 and 8 above."
10. "Agree that the Government of India shall cause the Plebiscite Administrator to be formally appointed to office not later than the final day of the demilitarisation period referred to in paragraph 6 above."
11. "Agree that the completion of the programme of demilitarisation referred to in paragraph 9 above will be without prejudice to the functions and responsibilities of the United Nations Representatives and the Plebiscite Administrator with regard to the final disposal of forces as set forth in paragraph 4 (a) and (b) of the January 5, 1949 resolution."
12. "Agree that any differences regarding the programme of demilitarisation contemplated in paragraph 9 above will be referred to the Military Adviser of the United

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\*The blank spaces were to be filled in by the respective Governments.

Nations Representative, and, if disagreement continues, to the United Nations Representative, whose decision shall be final."

The Prime Minister of India replied on September 11 to Dr. Graham's letter of September 7.

He stated in his reply that "for the reasons explained by our permanent Representative, Sir B. N. Rau, to the Security Council, we have found ourselves unable to accept the Council's resolution dated March 30, 1951, and that our discussions were without prejudice to this stand of the Government of India." "The views that my Government are submitting now on your proposals", the Premier added, "are similarly without prejudice to the stand."

The main points discussed by the Prime Minister in his letter of September 11, are stated as under:—

(i) The Government of India are in complete agreement with Dr. Graham's proposal that the two Governments must not resort to force and commit aggression with regard to the question of Jammu and Kashmir. Moreover, "India has not committed aggression against Pakistan or made war on that country and has no intention of doing so."

(ii) The Government of India "not only reaffirm their acceptance of the principle that the question of continuing accession of the State of Jammu and Kashmir to India shall be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations but are anxious that the conditions necessary for such a plebiscite should be created as quickly as possible."

(iii) The security of Jammu and Kashmir State from invasion will not be "effectively secured until the spirit and temper of war that now prevail on the other side of the cease-fire line and in Pakistan have been demonstrably replaced by a firm will to settle the Kashmir question peacefully. Nor will it be possible to make any headway with arrangements for holding

a plebiscite until this condition is satisfied. The Government of India greatly doubt whether this will be practicable within the period of 90 days. . . . The Government of India are willing to carry out the withdrawal of the bulk of the Indian forces in the State by the end of this period, provided that the operation described in 7A (i), (ii), (iii) of the proposals are progressively completed by the end of that period."

(iv) Para 7B(ii) should be omitted. The further withdrawals or reductions referred to in this part of the proposals cannot be related to the period in terms of paragraphs 6 and 9. These can be realised "only progressively thereafter as the fear of incursions into the State or renewal of aggression diminishes and completed when the fear completely disappears."

(v) The Government of India would agree to a Civil Armed Force of 4,000 to be maintained on the Pakistan side of the cease-fire line at the end of the period agreed upon in terms of paragraphs 6 and 9.

(vi) The Government of India "will retain on their side of the cease-fire in Jammu and Kashmir, one Line of Communication Area Headquarters and one Infantry Division (normal), but of four brigades of four battalions each", at the end of the period agreed upon in the terms of paragraphs 6 and 9, provided that the operations described in 7A(i), (ii), and (iii) have been completed by the end of that period.

The forces left behind will not be adequate to resist any large-scale aggression since "much more than the 'bulk of Indian forces in the State' will have been withdrawn". It is presumed that Pakistan will adopt effective measures to prevent such aggression.

(vii) The Government of India agree that the Plebiscite Administrator should be appointed "as soon as conditions in the State, on both sides of the cease-fire line, permit of a start being made with the arrangements for carrying out the plebiscite."

The Pakistan Prime Minister replied to Dr. Graham's letter on September 12. He informed the

U.N. Representative that the Pakistan Government were in general agreement with his demilitarisation proposals. The main points raised in their letter are given as under:—

(i) By the term "further withdrawals or reductions" [mentioned in Paragraph 7B(ii)] is meant the large-scale reduction and disarmament.

(ii) After the large-scale reduction and disbandment of forces on both sides of the cease-fire line has taken place, "there will necessarily be left some Azad Kashmir forces on one side and some armed forces on the other. If it is intended that these forces should be of the status of Civil Armed Forces, the same consideration will apply on both sides of the Cease-fire line."

(iii) The forces left in the State at the end of the demilitarisation period should be as small as possible. Not more than four infantry battalions (with the necessary administration units) should remain on each side of the cease-fire line at the end of demilitarisation.

(iv) The Plebiscite Administrator should be appointed as soon as possible. The Pakistan Government hopes that "he would be appointed to office as much in advance of the final day of demilitarisation as possible."

(v) A provision should be made in the Draft Agreement "that any differences regarding the interpretation of the Agreement should be referred to the U.N. Representative whose decision should be final."

Dr. Graham, while submitting his first report to the Security Council, made the following recommendations:—

1. The Security Council should call upon the Governments of Pakistan and India "to take all measures to improve the relations between the two countries by avoiding any increase of their military potential in the State of Jammu and Kashmir."
2. The Security Council should consider the "possibility of a renewed effort being made to obtain an agreement of the parties to a plan for effecting the demilitarisation of the State of Jammu and Kashmir."

3. If the Security Council decides to renew such efforts, the United Nations Representative may be instructed to continue the negotiations with the Governments of India and Pakistan "in order to obtain an agreement of the parties to a plan for effecting the demilitarisation of the State of Jammu and Kashmir. These negotiations should be conducted at the seat of the Security Council and the Council should instruct the U.N. Representative to report to the Council within six weeks."

On November 10, 1952, Dr. Frank Graham, the U.N. Representative for Kashmir, was authorised by the Security Council to continue his negotiations, for a period of six weeks, with India and Pakistan on the question of demilitarisation of the State of Jammu and Kashmir.

The resolution was introduced by the delegates of the United States of America and Britain. They expressed their concern at the convening of the Kashmir Constituent Assembly. Sir Gladwyn Jebb said that it was the British position that any moves made by the Jammu and Kashmir Constituent Assembly while Dr. Graham continued negotiations "should not prejudice the eventual form of settlement of the Kashmir controversy."

The voting on the resolution was nine in favour and two abstentions (India and the Soviet Union). India abstained from voting because she was a party to the dispute.

Dr. Graham started negotiations with the Indian and Pakistan representatives on November 15, in Paris. India was represented by Sir Benegal Narsingh Rau and Pakistan by Sir Mohammad Zafrullah Khan.

The United Nations Representative continued these negotiations till December 17. On December 19 he presented his second report to the United Nations Secretary-General for onward transmission to the Security Council.

In this report Dr. Graham stated that from the outset he "emphasized the desirability of concentrating

his efforts on endeavouring to narrow the differences of the parties on the following points:—

1. "The minimum number of forces to be left on each side of the cease-fire line at the end of the period of demilitarisation, and
2. "The day on which the Government of India would cause the Plebiscite Administrator to be formally appointed to office."

To this end he held many meetings with the Indian and Pakistan representatives and on December 7, 1951, presented to them his questionnaires. To the Government of India he also addressed a letter "requesting the Government's detailed plans for carrying out the demilitarisation of the State of Jammu and Kashmir under the UNCIP resolutions."

During these negotiations, Dr. Graham's Military Adviser, General Devers, at separate meetings with the Military Advisers of the representatives of India and Pakistan, "discussed relevant military matters in a purely exploratory manner."

The questionnaire to India stated:—

1. "The figure given by the Indian Government as the minimum to be left on its side of the State of Jammu and Kashmir at the end of the period of demilitarisation before the arrival of the Plebiscite Administrator is 28,000 troops, plus 6,000 Militia;  
Would it not be possible for the Government of India to accept a considerable reduction in the figure in order to make possible the demilitarisation of the State and to obtain the proposed agreement?
2. "The Representative of India has stated that effective guarantee should be given for further reduction of these forces:
  - (a) "Would it not be an adequate guarantee for the Government of India if an agreement is signed on the basis of the twelve proposals contained in the communication of September 7, 1951?
  - (b) "If not, would it be adequate if, in addition, United Nations military observers were stationed, in the necessary numbers, where it would be deemed appropriate by the United Nations and the Governments of India and Pakistan?



- (c) "If not, is the Indian Government ready to accept forces to be provided by the United Nations in order to safeguard security and maintain law and order in the whole State of Jammu and Kashmir as long as the United Nations, in consultation with the Governments of India and Pakistan, deems necessary?"
- (d) "If not, what other suggestions is the Indian Government prepared to make in order to obtain the demilitarisation under the resolutions of the Security Council and the agreed resolutions of the UNCIP of August 13, 1948 and January 5, 1949?"
- (e) "Would the Government of India agree to cause the Plebiscite Administrator to be formally appointed to office not later than the final day of the demilitarisation period?"

The questionnaire to Pakistan stated:—

1. "What is the minimum number of forces on both sides of the cease-fire line that the Government of Pakistan is ready to accept on the final day of the period of the demilitarisation of the State of Jammu and Kashmir?"
2. "Would the Government of Pakistan be ready to accept that United Nations military observers be stationed in the necessary numbers where it would be deemed appropriate by the United Nations and the Governments of India and Pakistan?"
3. "Would the Government of Pakistan be ready to accept forces to be provided by the United Nations in order to safeguard security and to maintain law and order in the whole State of Jammu and Kashmir as long as the U.N. in consultation with the Governments of India and Pakistan, deems necessary?"
4. "Would the Government of Pakistan agree that the Plebiscite Administrator be formally appointed to office not later than the final day of the demilitarisation?"

The Government of India's Representative replied on December 14, to the U.N. Representative's questionnaire and the letter of December 7.

Referring to the point whether, in view of certain new assurances, it would be possible to reduce the number of troops remaining in the State at the end of demilitarisation, the letter pointed out that the "Gov-

ernment of India was responsible for the security of the State, and security could not be made dependent solely on verbal assurances offered, but must be related to the actual conditions prevailing in the area". The quantum of forces remaining on the Indian side could not therefore be reduced "merely because of the number of assurances offered."

India's reply stated that on November 29, 1951, General Devers made "certain tentative suggestions in writing on how demilitarisation might be achieved." These suggestions were:—

1. "D-Day to be 30 days after the Principal Agreements have been signed.
2. "D to D plus 30.
  - (a) The United Nations observers' force be increased to approximately 800 officers and 600 men with necessary jeeps, helicopters and communication equipment to assure that there is no violation of the cease-fire Agreements and to assist in the demobilisation of forces and give stability and backing to local Governments in maintaining order.
  - (b) Pakistan to close the western border of the Azad Kashmir sector against unorganised ingress from the west. This to be done by selected regular troops.
  - (c) All regular Pakistan forces to be withdrawn to Pakistan, except three battalions.
  - (d) The Azad Kashmir armed forces to be reduced to four battalions.
  - (e) The regular Indian forces to be reduced to one division and one line-of-communications Area Headquarters.
  - (f) A police force of 4,000 civilians to be created in the Azad territory of Kashmir as follows:—
    - (a) 1,200 carefully-selected armed civilians who were formerly members of the disbanded Azad forces.
    - (b) 1,200 carefully-selected armed civilians who at no time have served as members of the disbanded Azad forces. None will be Pakistan nationals or former members of the Pakistan armed forces.

- (c) 800 carefully-selected unarmed civilians who were formerly members of the disbanded Azad forces.
- (d) 800 carefully-selected unarmed civilians who at no time have served as members of the disbanded Azad forces. None will be Pakistan nationals or former members of the Pakistan forces."

The Indian Military Advisers, the letter of December 14 stated, after consulting the Government of India, were able to agree to the basic principles underlying General Devers' programme with the following reservations which were to be discussed further:—

1. "The figure of Indian troops remaining at the end of demilitarisation given by the Indian Military Advisers was based on the assumption that there would be no Pakistan army or "Azad Kashmir" battalions (including the Gilgit scouts, etc.). General Devers' programme envisages the retention at the end of the period mentioned therein of three Pakistan army battalions in addition to four "Azad Kashmir" battalions. Accordingly, for that stage of the demilitarisation, it was proposed by the Indian military advisers that, in addition to the Division and L of C Area Headquarters on the Indian side contemplated in the programme, there should be three additional battalions."
2. "It was pointed out that the period of 30 days suggested for the implementation of the programme was impracticable because of winter conditions and the inaccessible nature of the terrain. This difficulty was fully appreciated by General Devers who recognised that a longer period would be necessary."
3. "As regards the observer force proposed, it was suggested by the Indian Military Adviser that a force of observers twice the number of that posted at present on the Indian side of cease-fire line should suffice, while on the Pakistan side a force of 100-150 appeared to be adequate."
4. "Certain suggestions were offered for the recruitment of the civil force of 4,000 on the 'Azad Kashmir' side."

The Indian Representative's reply to Dr. Graham's questionnaire of September 7 further stated that "with agreement reached on the programme proposed by

General Devers, agreement on the final stage of demilitarisation would clearly be greatly facilitated."

"To reach the final stage", India's letter added, "would involve, on the Pakistan side, the withdrawal of three Pakistan battalions, and the disbandment and disarming of four "Azad Kashmir" battalions, which amounts to a total reduction of 6,000 men. Against this, the Indian Military Advisers are prepared to make a substantial reduction in the Indian forces of armour, artillery and infantry, amounting to over 7,000 troops."

The Indian Representative's letter of December 14 made it clear to Dr. Graham that the "Indian Military Advisers consider that the force remaining at the conclusion of the above process is under present conditions the irreducible minimum compatible with the requirements of security." The letter further added:—

"It should be noticed that the Indian troops remaining in the State of Jammu and Kashmir at the end of the period of demilitarisation under the plan are over 7,000 less than the minimum stated in the Prime Minister's letter of September 11."

Dr. Graham's reference to the State militia in his questionnaire to India was viewed with surprise by the Government of India because "demilitarisation concerns only the Indian and State armed forces. The State militia, which is a police force, clearly does not fall within either category."

Referring to the suggestion of bringing U.N. forces into the State, the letter stated "that the replacement of Indian security forces by foreign troops, howsoever constituted, can under no circumstances be accepted."

"The Plebiscite Administrator", the letter concluded, "should be appointed as soon as conditions in the State, on both side of the cease-fire line, permit of a start being made with the arrangement for carrying out the plebiscite."

The Pakistan representative replied to Dr. Graham's questionnaire on December 11. The answers to these questions were stated as follows:—

1. "Four Infantry battalions (with the necessary administrative units) on each side of the cease-fire line.

"In case, however, India insists on retaining one division of four brigades, of four battalions each, consisting of 28,000 troops, presumably with the normal complement of armour and artillery of an Indian army division, plus 6,000 militia, the Pakistan Government would consider it necessary to retain the Azad Kashmir Forces consisting of 25,000 troops plus 3,500 Gilgit and Baltistan Scouts."

2. "Yes; it might be pointed out that under the UNCIP Resolution of August 13, 1948, the U.N. Representative is competent to station U.N. observers wherever he deems necessary."
3. "Yes; it is assumed that U.N. troops would be posted on both sides of the cease-fire line, and that the object of this proposal is to facilitate the withdrawal of all the forces of India and Pakistan, and the disbandment of all local forces, namely, the State army and militia and the Azad Kashmir forces."
4. "Yes; the Pakistan Government wish to emphasize the importance of appointing the Plebiscite Administrator formally to office as early as possible. The UNCIP Resolutions contemplate his appointment in the middle of the programme of demilitarisation. It is hoped that he would be appointed to office as much in advance of the final day of demilitarisation as possible."

The U.N. Representative pointed out in his second report that, besides paragraphs 1, 2, 3, and 4 of the demilitarisation plan of September 7, 1951, agreement had now been reached on four more proposals, namely, paragraphs 8, 9, 11 and 12.

"The representative of India", Dr. Graham's report stated, "agreed to accept paragraph 12 of the draft agreement on the understanding that the reference made there was not to differences arising in the process of drawing up a programme of demilitarisation, but only to differences upon technical details concerning the actual implementation of the agreed programme." The U.N. Representative agreed with this interpretation.

The United Nations Representative informed the Security Council that agreement had not been reached

on the "four most basic proposals of the twelve, namely, paragraphs 5, 6, 7 and 10". "Agreement on these four paragraphs", the report added, "is most essential for carrying out the plan of demilitarisation envisaged as an integrated whole in the twelve proposals."

Dr. Graham expressed his view on the problem arising from the lack of an agreement on four of the twelve proposals as follows:—

1. Paragraph 5 of the demilitarisation programme of September 7, 1951, should be interpreted as:—

"Agreement that the demilitarisation of the State of Jammu and Kashmir should be effected in a single, continuous process implied, in the opinion of the U.N. Representative, the implementation of Part 11 of the August 13, 1948, resolution, together with paragraph 4 (a) and (b) of the January 5, 1949 resolution as a whole." (Dr. Graham's full text of Report made to Security Council on October 15, 1951).

2. Paragraph 6 should read as follows:—

"Agree that this process of demilitarisation shall be completed on July 15, 1952, unless another date is decided upon by the representatives of the Indian and Pakistan Governments referred to in Paragraph 9."

3. Paragraph 7 should read as follows:—

"Agree that the demilitarisation shall be carried out in such a way that on the date referred to in paragraph 6 above the situation will be:—

A. On the Pakistan Side of the cease-fire line:—

(i) the tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn;

(ii) the Pakistan troops will have been withdrawn from the State, and

(iii) large-scale disbandment and disarmament of the Azad Kashmir forces will have taken place.

B. On the Indian Side of the Cease-fire line:—

(i) the bulk of the Indian forces in the State will have withdrawn;

(ii) further withdrawals or reductions, as the case may be, of the Indian and State armed forces remaining in

the State after the completion of the operation referred to in Clause B (a) above will have been carried out;

so that on the date referred to in paragraph 6 above there will remain on each side of the cease-fire line the lowest possible number of armed forces based in proportion on the number of armed forces existing on each side of the cease-fire line on January 1, 1949."

(4) Paragraph 10 to be maintained as it stands.

The Security Council resumed its debate on Kashmir on January 17, 1952.

Dr. Graham, the United Nations Representative, who had presented his second report on December 18, addressed the Security Council. He said he could not inform the Security Council that substantial progress had been made on four main proposals regarding the timing and process of demilitarisation and the date of induction of office of the Plebiscite Administrator.

The U.N. Representative stated that General Devers' discussions with the military advisers of Indian and Pakistan Representatives had shown "that, although agreement might have been reached on the phasing of some of the withdrawals, the differences between the parties on the quantum to be left at the end of the period of demilitarisation were essentially the same basic differences that had previously blocked agreement".

He stated:—

"On the other hand, as the demilitarisation was contemplated in a single, continuous process and as the resolution of January 5, 1949, of the U.N. Commission conferred upon the Plebiscite Administrator in conjunction with the U.N. Representative and the respective authorities certain functions with regard to the final disposal of forces, the appointment of the Plebiscite Administrator at a certain moment in the period of demilitarisation was considered necessary. But on this basic point no agreement could be reached."

Dr. Graham informed the Security Council that "as a result of informal talks at the military level, India agreed to withdraw an additional 7,000 of its armed

forces". He said this further withdrawal "would bring the Indian and State forces down to 21,000 (exclusive of the State militia of 6,000) which it seems would be a proportion of perhaps over 75 per cent of the Indian and State armed forces present in the State at the time of the cease-fire on January 1, 1949."

Referring to the differences between the Governments of India and Pakistan on the quantum of forces to be left at the end of the period of demilitarisation, the U.N. Representative stated:—

"India held the position that at the end of the period of demilitarisation there should be on the Indian side of the line 21,000 Indian and State armed forces (exclusive of the State militia of 6,000) and there should be on the other side of the line a civil armed force of 2,000 and an unarmed civil force of 2,000, half of whom were to be followers of Azad Kashmir and half of whom were not to be followers of Azad Kashmir.

"Pakistan maintained that at the end of the period of demilitarisation there should be approximately 4,000 armed forces on each side of the cease-fire line but, for the sake of an agreement, would accept a slight disparity in favour of India."

Dr. Graham suggested the following two principles as a basis for an approach to this problem: . . . . .

1. "That the number of armed forces to be on each side of the line at the end of the period of demilitarisation be as small as possible; and
2. "That they be based in proportion on the number of armed forces existing on each side of the cease-fire line on January 1, 1949."

Elucidating these two suggestions in detail, he added:—

"Concerning the first point the reasons are obvious. Both parties have agreed to the demilitarisation of the State of Jammu and Kashmir and the Security Council has recommended that the demilitarisation should be effected.

"Concerning the second point, it is the view of the U.N. Representative that the way to demilitarise is to withdraw or reduce or disarm and disband armed forces and that the simplest and clearest and one of



the most workable principles may be co-ordination in the continuous process so as to leave, at the end of the period of demilitarisation, the smallest number possible based in proportion of the number existing at the beginning of the cease-fire on January 1, 1949."

In regard to the induction of the Plebiscite Administrator the U.N. Representative told the Security Council that on September 7, 1951, he had proposed "that the Government of India cause the Plebiscite Administrator to be inducted into office not later than the last day of the period of demilitarisation contemplated as 90 days from the signing of the agreement."

The replies of the two Governments to this proposal were as stated below:—

 "The Government of Pakistan maintained that since the Plebiscite Administrator had duties under the January 5, 1949, resolution which were envisaged as interdependent parts of a single continuous process he should take office early during the continuous process."

2. "The Government of India maintained that the Plebiscite Administrator should be appointed as soon as conditions in the State on both sides of the cease-fire line permitted of a start being made with the arrangements for carrying out the plebiscite. Before that time it would be premature."

"It is the view of the U.N. Representative," Dr. Graham stated, "that an agreement for a specified time for the induction into office of the Plebiscite Administrator would contribute to the further development of a more friendly atmosphere." He further stated that "the main key to the complex problems of the demilitarisation programme, the clearest symbol of the necessary and ultimate demilitarisation and the promised plebiscite, would be fixing of a definite day for the induction into office of the Plebiscite Administrator."

Making known his view on this vital question, Dr. Graham said:—

"The best day for the induction into office of the Plebiscite Administrator is not at the beginning or mid-way, but the last day of the contemplated period which is not later than July 15, 1952."

After Dr. Graham had finished his report, the Soviet Representative, Mr. Jacob Malik, addressed the Security Council:—

"More than four years have elapsed since the Security Council began to examine the Kashmir question. In the course of this entire period the United States and Britain have been and are taking an especially active part in discussing this question at the Security Council, in preparing and implementing plans for the so-called solution of this question. During this entire period the representatives of the United States and Britain in the Security Council submitted quite a few proposals and draft resolutions on this question and succeeded to get them adopted by the Council. Commissions were set up on the regulation of the Kashmir question mediation and U.N. representatives were appointed for regulating this question. As yet, however, the solution of the Kashmir question has not advanced one step."

Mr. Malik asked why the "Kashmir question has not yet been settled" and why the "plans of the United States and Great Britain for Kashmir proved fruitless from the viewpoint of regulating the Kashmir question."

Explaining the answers to these questions, the Soviet Representative stated:—

"It is not hard to see that this is explained primarily and chiefly by the fact that these plans for Kashmir are of an aggressive, imperialistic nature, since they are based not on the desire to really regulate the Kashmir question. They pursue other aims, other directly opposite purposes. These plans stand for United States and British interference in the internal affairs of Kashmir, for prolonging the dispute between India and Pakistan on the Kashmir question, for converting Kashmir into trust territory of the United States and Great Britain on the pretext of rendering Kashmir help through the United Nations. Finally, these plans as regards Kashmir aim to achieve the bringing of American-British troops into the territory of Kashmir and to convert the latter into an American-British colony and into military strategic strong point."

Mr. Jacob Malik told the Security Council that, to realise these plans for Kashmir, the United States and Britain "at the same time took all measures not to give the Kashmir people the opportunity to decide their

destiny themselves without any outside pressure and without Anglo-American interference."

"Under cover of democratic phraseology", he added, "the United States and Britain from the very outset have been trying to impose on the Kashmir people their dictate, forcing them to decide questions of their destiny not through the free expressions of the will but under the dictation of the American representatives who cover themselves up with the name of the United Nations."

In proof of his charge that the United States and Britain "are taking all measures in order to prevent a solution of the question as regards the status of Kashmir through a free and unhampered expression of the will" of the Kashmir people, Mr. Malik stated:—

"When in October 1950 it became known that the General Council of the National Conference of Jammu and Kashmir adopted a resolution recommending the convocation in Kashmir of a Constituent Assembly for defining the future structure and status of Kashmir, the United States and Britain immediately interfered in this matter in order to prevent the Kashmiri people from independently deciding their fate and determining the status of their country. They hastened to impose upon the Security Council a resolution which declared that the convening of a Constituent Assembly in Kashmir and all measures which the Constituent Assembly may attempt to take for determining the future structure and status of Kashmir or any part of it will not be considered as a decision on the future fate of Kashmir."

The Soviet representative characterised this resolution as "nothing else but crass interference of the United States and Britain in the internal affairs of the Kashmir people and outright violation of the principle of the United Nations Charter."

Explaining his views with regard to the Anglo-American suggestions of stationing foreign troops in Kashmir, Mr. Malik stated:—

"The above-mentioned Anglo-American resolution imposed on the Kashmir people a plebiscite under United Nations control. In other words, a plebiscite under the supervision of American and British representatives, and not

only under the supervision of these representatives, but also under the control of the Anglo-American armed forces . . . As an excuse for sending troops it was pointed out that such troops were allegedly necessary for facilitating the demilitarisation and carrying through of the plebiscite. The draft put forward the frank demand to authorise the so-called U.N. Representative for Kashmir to take up the question of leading the troops of United Nations Member States' into Kashmir under the above-mentioned pretext. If we take into consideration that since then, on the United States' demand, an American has been appointed as United Nations Representative for Kashmir, the proposal to bring into Kashmir the Armed Forces of the U.N. Member States will become utterly clear. This American 'United Nations Representative' arrived in Kashmir, as is known, accompanied by a large staff of American experts and advisers, among whom military predominated. An American held the post of Chief Military Adviser."

The Soviet representative said that, owing to the objection of India, the proposal to bring into Kashmir territory the armed forces of United Nations member states was dropped from the draft Anglo-American resolution, "but only formally." He stated that measures had been taken to carry this proposal "into life".

Mr. Jacob Malik stated that this was evident from the questionnaire that Dr. Graham had presented to the Governments of India and Pakistan, wherein he had asked both the Governments whether they were prepared to agree to admit the armed forces of the U.N. member states into the territories of Jammu and Kashmir State.

The Soviet representative asked the Security Council the question: "On what grounds did Mr. Graham put the question to the Governments of India and Pakistan? Who gave him such powers." Mr. Malik said that the Security Council resolutions "defining the scope of powers of the United Nations Representative for Kashmir do not contain any authority to deal with the question of bringing foreign troops into Kashmir."

"Mr. Graham had no right to put this question to the Governments of India and Pakistan without the

knowledge of the Security Council and without being authorised by the Council," he added.

Enunciating the principle which should guide in "finding" a correct way for regulating the Kashmir question", he said:—

"Such a way can be found only on condition that, in the regulation of this question, one is guided by the principle of equality of self-determination of peoples, provided for in the U.N. Charter. In conformity with this principle the Kashmir people have the same right as any other people to take their destiny into their own hands . . . The United States and Anglo-American block must cease interfering in the internal affairs of Kashmir. This will be the only correct way to solve the Kashmir question."

Making known the attitude of the Government of the U.S.S.R. towards the settlement of the Kashmir question, Mr. Jacob Malik stated:—

"In the opinion of the Soviet Government the Kashmir question can be successfully solved only by granting the Kashmir people the opportunity themselves, without outside interference, to decide the question of the Status of Kashmir. This can be achieved by the Constituent Assembly defining the status. It is assembly elected by the Kashmir people in a democratic way."

Mr. Ernest Gross (U.S.A.) described Mr. Malik's speech as "truly astonishing". He said no useful purpose would be served in continuing the debate; the Report required further study. The U.S.A. would give it the attention it deserved, he added.

Mr. Jean Chauvl (France), the Security Council Chairman, adjourning the meeting said he was ready to reconvene the Council when members considered they were ready to make further observations or submit proposals.

On January 21, 1952, the United Nations Secretariat released what they called the "Devers Plan" for the Demilitarisation of the Jammu and Kashmir State as a Security Council document.

A press note issued by the External Affairs Ministry of the Government of India on January 23, 1952,

pointed out that the only "Devers Plan" communicated to them was on November 29, 1951, in Paris. They had no knowledge of any other plan, either formally or informally.

The Government of India expressed complete amazement at the fact that a totally different set of suggestions, which were never communicated to them at all, had now been published as the "Devers Plan". The suggestion that this plan, published by the U.N. Secretariat on January 21, 1952, was the plan communicated to the Government of India on November 29, 1951, was described as false.

It was pointed out by the Government of India that the plan, then released, differed substantially from the plan actually communicated on November 29, 1951.

The Security Council was called to session on January 31, 1952, to consider the Graham Report.

The Indian delegation consisted of Sheikh Mohammad Abdullah, Sir G. S. Bajpai and Mr. Setalvad.

Sir Gladwyn Jebb (Britain) suggested that Dr. Graham should continue his efforts and report to the Security Council by the end of March.

Mr. Setalvad said India was as anxious as any member of the Council to find "an early, equitable and peaceful solution" to the problem and would not object to Dr. Graham's being given further time to continue his efforts.

He said India wanted a quick and peaceful solution of the Kashmir problem, not only because she was anxious that the people of Kashmir should determine their own future but also because she wanted the firm and lasting friendship of her neighbour, Pakistan.

Referring to the so-called "Devers Plan" released on January 21, 1952, Mr. Setalvad said: "The document as a whole was not at any time shown either to our representative or to our military advisers."

Mr. Setalvad said that "a definite period of demilitarisation and the date for the formal induction into office of the Plebiscite Administrator could be settled without difficulty, provided agreement was reached on the scope of demilitarisation and the quantum of forces that would remain at the end of the period of demilitarisation, and the programme agreed upon for this purpose were satisfactorily implemented."

"The question of phasing", he added, "should be easy of adjustment provided agreement was reached on the quantum and character of forces to be retained on each side of the cease-fire line."

The Indian delegate stated that India had agreed to reduce her forces by the end of the period of demilitarisation to 21,000. This figure included State forces and also represents less than one-sixth of the regular forces on the Indian side of the cease-fire line on January 1, 1949.

"The State Militia", Mr. Setalvad added, "which numbers only 6,000, is of the nature of a police force, needed for the maintenance of law and order, not a military reserve in any sense."

Regarding the number of forces to be left on the other side of the line, he said:—

"For the other side of the cease-fire line, we have agreed to a civil armed force of 4,000 because we feel this should be adequate for the maintenance of law and order in the 'Azad Kashmir' area."

We cannot conceive of any other risk against which regular armed forces should be retained in 'Azad Kashmir'."

Sir Mohammad Zafrullah Khan intervened at the end of the Indian delegates' statement. He said there were several points on which he would like to say something. But he would prefer to leave them to discussion with Dr. Graham rather than raise a controversy.

The Soviet delegate, Mr. Tsarapain, said that the position of his delegation with regard to Dr. Graham had already been made clear and he would abstain from voting, if the formal resolution were moved.

Sir Gladwyn Jebb suggested that Dr. Graham should pay a visit to the Indo-Pakistan Sub-continent. Explaining his reasons for this, he stated:

"Indeed he might find the situation such that it could be possible for the Prime Ministers themselves to meet under his chairmanship."

As for the terms of reference for Dr. Graham's fresh mission, Sir Gladwyn said that the Security Council in a series of resolutions "has clearly defined the path along which a settlement is to be approached." Dr. Graham himself, by the 12-point proposals which he submitted, has already set the course which he would follow, he added.

Sir Gladwyn stated that Dr. Graham could return to the Sub-continent and no new resolution was necessary.

The United Nations Representative arrived in New Delhi on February 29, 1952. He was accompanied by his Military Adviser, General Jacob L. Devers, and a staff of six. He stayed in the Sub-continent for four weeks (February 29 to March 25). During this period Dr. Graham continued his previous procedure of separate negotiations with the Governments of India and Pakistan. He ascertained their points of view with regard to the four basic proposals on which agreement between the parties had not been reached. These proposals related to the questions of: (1) the quantum of forces that would remain at the end of the period of demilitarisation; (2) a definite period for demilitarisation; and (3) the date for the formal induction into office of the Plebiscite Administrator.

The position of the two Governments with regard to these questions was as follows:

***Position of India:***

1. The Government of India maintained that 21,000 regular Indian Army forces, plus 6,000 State militia, be left on the Indian side of the cease-fire line



at the end of the period of demilitarisation, and a force of 4,000 men, consisting of persons normally resident in "Azad Kashmir" territory, half of whom are followers of "Azad Kashmir" and the other half persons who are not its followers, be stationed on the Pakistan side of the cease-fire line.

2 and 3. The Government of India considered that a definite period for demilitarisation and the date for the formal induction into office of the Plebiscite Administrator could be settled without difficulty provided agreement was reached on the scope of demilitarisation and the quantum of forces that would remain at the end of the period of demilitarisation.

*Position of Pakistan:*

1. The Government of Pakistan maintained that at the end of period of demilitarisation there should remain on each side of the cease-fire line the lowest possible number of armed forces based in proportion to the number of armed forces existing on each side of the cease-fire line on January 1, 1949. The Pakistan Government held that the demilitarisation programme should embrace all the armed forces in Jammu and Kashmir without exception, namely, the Pakistan Army, the "Azad Kashmir" forces, the Indian Army, the State army and the State militia.

2. The Pakistan Government agreed that the demilitarisation programme envisaged by Dr. Graham should be completed not later than July 15, 1952.

3. The Pakistan Government agreed that the Plebiscite Administrator should be inducted into office not later than the final day of the demilitarisation period referred to in para (2) above.

In his third report to the Security Council Dr. Graham, while stating his views on the general problem, stated that many of the questions dealing with the demilitarisation of the State were closely related to problems affecting the preparation of the plebiscite and with the responsibilities of the Plebiscite Administrator.

Among these responsibilities was the final disposal of the forces to remain on each side of the cease-fire line. Explaining it, the United Nations Representative stated in his third report:

"It is the firm conviction of the United Nations Representative that, besides the question of the final quantum of forces, there are other factors which have a bearing on demilitarisation, which need now to be taken into consideration. The United Nations Representative is not at the present time in a position to give a considered statement on all these factors. . . . The United Nations Representative, in addition to having the advice of the civilian and military members of his staff, deems it necessary that the Plebiscite Administrator-designate be associated with him in studies and consideration of common problems."

Concluding the report, Dr. Graham stated that in the future, in addition to the assistance to be provided by his civilian and military advisers, he "has the purpose to have the views of the Plebiscite Administrator-designate on those problems which have a bearing on their common responsibilities."

The United Nations Representative made the following recommendations:—

1. The Governments of India and Pakistan should refrain from taking any action which would augment the present military potential of the forces in the State and they should continue their determination not to resort to force.
2. The Governments of India and Pakistan "should undertake by July 15, 1952, further to reduce the forces under their control in the State of Jammu and Kashmir."
3. The United Nations Representative's negotiations with the Governments of India and Pakistan should be continued so as to resolve the remaining differences on the Twelve Proposals, with special reference to the quantum of forces to be left on each side of the cease-fire line at the end of the period of demilitarisation and the general implementation of the Resolutions of the UNCIP of August 13, 1948 and January 5, 1949.

The United Nations Representative resumed his negotiations with the Governments of India and Paki-

stan at New York. They continued from May 29 to July 16, 1952. India was represented by Mr. Rajeshwar Dayal and Pakistan by Professor Ahmad S. Bokhari.

On May 29 a joint meeting of the Indian and Pakistan delegations took place under the chairmanship of Dr. Graham, in which he underlined the following procedure that he intended to follow:

1. The negotiations would proceed under the terms of reference as laid down in the Security Council resolutions of March 30, 1951, and November 10, 1952, as well as the debate in the Security Council on the matter.
2. The negotiations would continue without prejudice to any action that the Security Council might make on Dr. Graham's third report.

The Indian and Pakistan representatives agreed on behalf of their Governments to the procedure outlined by Dr. Graham, with the reservation on the part of the representative of India that he could not agree that the negotiations should proceed under the terms of the Security Council resolution of March 30, 1951, which had not been accepted by the Government of India.

The United Nations Representative then invited the Indian and Pakistan representatives to state their positions on the quantum of forces to be left on each side of the cease-fire line at the end of the period of demilitarisation, and on the question of general implementation of the resolutions of the UNCIP of August 13, 1948, and January 5, 1949.

During the discussions at New York, terms used in Dr. Graham's twelve proposals and the UNCIP's resolutions and bearing of a military significance, and on which there had been differences in interpretation, were given consideration. Dr. Graham's Military Adviser, General Devers, met the Military Advisors of the representatives of India and Pakistan jointly and separately. The following definitions were agreed as

representing the points of view of the respective Governments:—

1. *"On the meaning of the word 'bulk'*

- (a) It does not have a precise military meaning, and
- (b) As used in paragraph 7B(i) of the Twelve Proposals and in paragraph B. 1 of Part II of the August 13 resolution, it is interpreted, of the Indian part, as referring to the majority of, and on the Pakistan part as referring to most of, the Indian forces.

2. *"On the meaning of the term 'State armed forces'*

The term 'State armed forces' referred to in Paragraph 4(a) of the January 5, 1949, resolution, as well as in 7B(ii) of the Twelve Truce Proposals, is interpreted by India as referring solely to what was, at the time of the acceptance of the January 5, resolution, the Maharaja's State armed forces. The Government of India states that these forces have now been integrated with the Indian Army for purposes of operational control, but not in regard to internal administrative matters. In the view of the Government of India the term 'State armed forces' cannot be interpreted to include the Jammu and Kashmir militia, either to-day or at the time of the acceptance of the January 5, 1949 resolution.

The phrase 'State armed forces' is interpreted by the Government of Pakistan as referring to the Kashmir State forces and the Jammu and Kashmir militia. The Government of Pakistan understands that the Kashmir State forces and the Jammu and Kashmir militia are now under the operational control of the Indian Army.

3. *On the number of forces on January 1, 1949*

Based on ration returns, the number of combatant forces on January 1, 1949, when the cease-fire took effect, was as follows:

- (a) On the Indian side, according to India, 1,30,000 troops, and
- (b) On the Pakistan side, according to Pakistan, 81,000 troops.

No agreement was reached on these respective estimates."

## THE GENEVA CONFERENCE

**T**HE course of negotiations at New York "brought the United Nations Representative to the conclusion that the appropriate step was for him to introduce for consideration in a meeting at ministerial level a new draft of his twelve proposals in which some of the paragraphs were revised in the light of the recent discussions". Accordingly, Dr. Graham held a joint meeting of Indian and Pakistan representatives on July 16, 1950, in which he made a statement and introduced the revised proposals which he intended to submit formally at the forthcoming Conference.

The Governments of India and Pakistan accepted Dr. Graham's suggestion of convening a conference at ministerial level. Geneva was selected as the venue of the Conference. Accordingly, the joint conference took place in the European office of the United Nations from August 26 to September 10, 1952. The Indian delegation was led by Mr. Gopalaswami Ayyangar and the Pakistan delegation by Sir Mohammad Zafrullah Khan. They were aided by their respective teams of advisers, both military as well as civil.

The Geneva Conference was divided into two stages. The first stage began with the introduction of the revised set of proposals by Dr. Graham, Paragraph 7 of which suggested brackets of 3,000 to 6,000 armed forces on the Pakistan side of the cease-fire line and an Indian Army force of 12,000 to 18,000 on the Indian side of the cease-fire line. The United Nations Representative proposed that the quantum of forces to remain on each side of the cease-fire line be fixed up within these brackets. To discuss this proposal, joint

meetings and separate conversations were held at the representative and advisory level.

On September 2, Dr. Graham introduced a new draft of his proposals, suggesting in Paragraph 7A(iii) and B(ii) a minimum of 6,000 armed forces to be stationed on the Pakistan side of the cease-fire line at the end of the period of demilitarisation and of 18,000 on the Indian side. Dr. Graham made it clear that in this draft, as in the draft of July 16, 1952, these figures did not include the Gilgit and Northern Scouts on the Pakistan side of the cease-fire line, and the State militia on the Indian side of the cease-fire line.

From the discussions between the United Nations Representative and the representatives of India and Pakistan, it appeared that no agreement could be secured on the figures proposed, either within the brackets suggested or on definitive numbers. The positions of the two Government, as stated by Dr. Graham, were as follows:

A. Character and quantum of forces to remain on  
each side of the Cease-fire line

**POSITION OF INDIA**

1. The Government of India maintained that they are constitutionally responsible for the defence of Jammu and Kashmir State.

2. According to paragraph 4(a) of Part II of the UNCIP resolution of August 13, 1948, the Government of India were entitled to have the minimum forces required to assist the Government of Jammu and Kashmir in the maintenance of law and order. The Government of India considered that UNCIP itself interpreted this to include adequate defence. Under paragraph 4(a) of the UNCIP resolution of January 5, 1949, the disposal of Indian and State armed forces on the Indian side of the cease-fire line had to be with due regard to the security of the State which had a wider significance than law and order.

3. Having regard to these commitments of internal and external security, the responsibilities under the cease-fire agreement and the fact that Pakistan would be free to locate its forces as it liked within its own borders, which for some length are common with the borders of Jammu and Kashmir State and for a still greater length within practically striking distance of the cease-fire line and important areas of Jammu and Kashmir State, the Government of India considered that a minimum force of 28,000 was required.

4. However, on complete disbandment and disarmament of the "Azad Kashmir" forces and as a further gesture towards a settlement, they were prepared to effect a further reduction of 7,000 but it was impossible to reduce this absolute minimum figure of 21,000. The Government of India were under no circumstances prepared to include the militia in these calculations, the militia being a special armed police force under the administration of the Jammu and Kashmir Government for its normal law and order responsibilities and only temporarily, for the period of emergency, under the operational control of the Indian Army.

5. The Government of India maintained that the administration of the areas on the Pakistan side of the cease-fire line would, under para 3 of Part II of the Resolution of August 13, 1948, vest in local authorities to be established or recognised for the purpose; to these local authorities under the same resolution only local administrative functions were assigned. In the very nature of things such authorities could be in charge only of local law and order, whether in the area or with reference to the cease-fire line. To give them any armed force equivalent to troops would not be consistent either with their status or with their functions and would be a violation of the sovereignty of the Union of India and Jammu and Kashmir State. In the very nature of things, therefore, these local authorities could be entrusted only with a civil armed force.

6. The Government of India considered that a civil armed force of 4,000 would be on the liberal side, considering the pre-aggression strength of forces policing this area. Having regard to the functions these forces were to discharge and the conditions of a fair and impartial plebiscite, these forces were to consist of an equal proportion of "Azad Kashmir" and other elements.

## POSITION OF PAKISTAN

1. The Government of Pakistan maintained that security on each side of the cease-fire line had to be ensured and neither side should be able to steal a march against the other, but the over-riding consideration was that neither India nor Pakistan should be placed in a position to intimidate the population and influence their vote in the plebiscite. India could not be the sole judge of the steps needed to ensure the security of the State. During the plebiscite stage, the United Nations Representative and the Plebiscite Administrator, in accordance with the January 5, 1951 resolution, had the right to determine, in consultation with the authorities concerned, the final disposal of all the forces remaining in the State of Jammu and Kashmir, "such disposal to be with due regard to the security of the State and the freedom of the plebiscite".

2. The Government of Pakistan considered that after the process outlined in clause 7 of the United Nations Representative's proposals of July 16, 1952 had been carried out, there should remain on each side of the cease-fire line only the minimum forces necessary for the maintenance of law and order and the preservation of the cease-fire line. The character of the forces must be the same on both sides of the cease-fire line.

3. In regard to the figures established by the United Nations Representative in Clause 7 of his proposals of September 2, 1952, the Government of Pakistan considered that it left too many soldiers in the State. The ratio of the forces proposed was also un-



fair to Pakistan, considering the ratio on the date of the cease-fire.

4. Subject to these observations, the Pakistan delegation was prepared to accept the proposals of September 2, 1952, of the United Nations Representative.

### B. Final disposal of forces

#### POSITION OF INDIA

The Government of India contended that the term "final disposal" in paragraph 4(a) of the January 5, 1949 resolution meant only disposition. Moreover, once it was accepted in principle that the demilitarisation contemplated under the resolution of August 13, 1948 and January 5, 1949 should be effected in a single continuous process, no interference with the strength of forces in the State was possible at the plebiscite stage. Furthermore, if the matter of the reduction or withdrawal of forces at the plebiscite stage, according to the Pakistan Government's interpretation of 4(a) and (b) of the resolution of January 5, 1949, is brought into the demilitarisation stage, the process of demilitarisation must be deemed to have exhausted itself and the United Nations Representative and the Plebiscite Administrator could in the plebiscite stage deal only with the question of disposition.

#### POSITION OF PAKISTAN

The Government of Pakistan maintained that the term "final disposal" covered reduction by withdrawal or disbandment, as well as location or stationing of the armed forces concerned. If it was contended that "final disposal" means only the location or stationing of the forces, then there was by the same token no provision in the UNCIP resolution for the reduction or disbandment of the "Azad Kashmir" forces.

C. Induction into office of the Plebiscite  
Administrator

**POSITION OF INDIA**

The Government of India's view was that the Plebiscite Administrator could properly function only after (i) the process of demilitarisation was completed and the United Nations Representative was satisfied that peaceful conditions had been restored, and (ii) the local authorities were recognised and were functioning on the Pakistan side of the cease-fire line under the surveillance of the United Nations Representative. In the interests of agreement, however, the Government of India was prepared to agree to his induction on the last day of the period of demilitarisation provided it was completed according to plan and was exhaustive, so that the Plebiscite Administrator would, as regards the forces remaining in the State after demilitarisation was fully implemented, be concerned along with their disposition.

**POSITION OF PAKISTAN**

Under the UNCIP resolution of January 5, 1949, the Plebiscite Administrator had to be inducted into office as soon as the tribesmen, Pakistan volunteers and the Pakistan army withdrew. The proposal of the United Nations Representative that the Plebiscite Administrator should be appointed not later than the last day of the demilitarisation programme represented in the opinion of the Government of Pakistan, a big concession to the Indian point of view. Nevertheless, Pakistan was prepared to accept it as part of the twelve truce proposals suggested by the United Nations' Representative.

The second stage of the Geneva Conference began on September 4, 1952. Dr. Graham stated in his fourth report to the Security Council that, "as it was not possible to secure agreement on the minimum forces to be left on each side of the cease-fire line, the Representative thought it might be possible for the two Governments to agree on some principles based on the re-

quirements of each side of the cease-fire line". "These principles could then serve", he added, "as the criteria for fixing the quantum of forces, in the Conference of civil and military representatives contemplated in the provisional clause of the revised proposals of September 2. Accordingly, Dr. Graham submitted a new draft proposal in a joint meeting on September 4, 1952. Paragraph 7 of these proposals reads as follows:

"Agree that the demilitarisation should be carried out in such a way that at the end of the period referred to in paragraph 6 above the situation will be:

A. *On the Pakistan side of the cease-fire line:*

- (i) the tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn;
- (ii) the Pakistan troops will have been withdrawn from the State;
- (iii) large-scale disbanding and disarmament of the Azad Kashmir forces will have taken place; so that at the end of the period of demilitarisation there shall be the minimum number of forces that are required for the maintenance of law and order and of the cease-fire agreement with due regard to the freedom of the plebiscite.

B. *On the Indian side of the cease-fire line:*

- (i) the bulk of the Indian forces in the State will have been withdrawn;
- (ii) further withdrawals or reductions, as the case may be, of the Indian and State armed forces remaining in the State after the completion of the operation referred to in B(i) above will have been carried out; so that at the end of the period of demilitarisation there shall be the minimum number of Indian forces and State armed forces that are required for the maintenance of law and order and the cease-fire agreement, with due regard to the security of the State and the freedom of the plebiscite."

The positions of the two Governments, as stated by Dr. Graham, were as follows:—

#### POSITION OF INDIA

The Government of India maintained that they could not accept any equation of their responsibilities

with the local authorities on the Pakistan side of the cease-fire line or agree to anything more than giving a local character to the maintenance of public order in that area by the local authorities. Constitutionally, the defence of the entire State of Jammu and Kashmir State was the concern of the Government of India and they alone were entitled to maintain a military armed force for the purpose. India maintained that this was the only position consistent with the assurance given by the Commission and the practice observed hitherto by the United Nations authorities of giving recognition to the sovereignty of the Indian Union and the State which derived originally from the Instrument of Accession and had since been embodied in the Constitution of India.

#### **POSITION OF PAKISTAN**

The Government of Pakistan fully agreed with the United Nations Representative that every effort should be made at the general conference itself to agree on the number and character of forces which should remain on each side of the cease-fire line at the end of the demilitarisation programme. Failing this, the conference should at least agree on the guiding principles for determining the number and character of forces. The Pakistan delegation felt that the words "with due regard to the freedom of the plebiscite" used in sub-clause 7A(iii) and the phrase "with due regard to the security of the State and the freedom of the plebiscite" used in sub-clause 7B(ii) of the draft proposals should be deleted. The object of this amendment was to avoid recurrence in the military Sub-committee of the political controversies which had held up progress in the main conference itself. Subject to the above observations, and some drafting changes, the Pakistan delegation was prepared to accept the United Nations Representative's draft proposal of September 4, 1952.

In his fourth report to the Security Council, Dr. Graham stated that he made the Plebiscite Administra-

tor's induction into office as the "central part" of the twelve proposals, both original and revised.

"His induction into office", he added, "follows upon the solution of the crucial problem of the character and number of forces to remain on each side of the cease-fire line at the end of the period of demilitarisation".

Concluding the report he stated:

"The Representative holds the view that for reaching an agreement on a plan of demilitarisation, it is necessary either:

- (a) to establish the character and number of forces to be left on each side of the cease-fire line at the end of the period of demilitarisation;

or

- (b) to declare that the forces to remain on each side of the cease-fire line at the end of the period of demilitarisation should be determined in accordance with the requirements of each area, and, accordingly, principles or criteria should be established which would serve as guidance for the civil and military representatives of the Governments of India and Pakistan in the meeting contemplated in the Provisional clause of the revised proposals."

## AND THE DEBATE GOES ON

**O**N November 6, 1952, the United States and Britain introduced a joint resolution on Kashmir in the Security Council. The resolution urged the Governments of India and Pakistan.

"to enter into immediate negotiations at the Headquarters of the United Nations in order to reach an agreement on the specific number of forces to remain on each side of the cease-fire line at the end of the period of demilitarisation, this number to be between 3,000 and 6,000 armed forces remaining on the Pakistan side of the cease-fire line and between 12,000 and 18,000 armed forces remaining on the Indian side of the cease-fire line, as suggested by the United Nations Representative in his proposals of July 16, 1952, such specific numbers to be arrived at bearing in mind the principles of criteria contained in paragraph 7 of the United Nations Representative's proposal of September 4, 1952."

The British representative, Sir Gladwyn Jebb, introduced the resolution in the Council. After a brief introductory speech, he reviewed Dr. Graham's negotiations with India and Pakistan and said:

"Dr. Graham has reported that they (India and Pakistan) have accepted his proposal that demilitarisation would be conducted in such a way as to involve no threat to the cease-fire Agreement either during or after the demilitarisation period. This seems to the United Kingdom Government of great significance. If it is taken as a criterion for deciding the stages by which, and the extent to which, the military forces on each side of the cease-fire line should be reduced, it should provide a way of resolving at least the major differences of view that may exist between the two Governments. We believe that Dr. Graham, in suggesting the limits within which the final number of armed forces on each side of the cease-fire line should be fixed, was guided by this principle."

Recommending acceptance of the Anglo-U.S. resolution on the quantum of forces to remain on each side of the cease-fire line after the period of demilitarisation, he stated:

"If the two Governments could now decide upon the final figure for the strength of their armed forces within the limits suggested by Dr. Graham and within the limits which we have incorporated into our draft resolution, they can, I suggest, assure themselves that the considerable reduction in the strength of the armed forces on each side of the cease-fire line will involve no threat to its integrity or to the security of the territory on either side. It is our view, therefore, that within these limits final figures for the strength of the armed forces on each side of the cease-fire line can and should be determined."

Sir Gladwyn told the Security Council that the British Government had never thought that the proposal to limit the forces on the Pakistan side of the cease-fire line to an armed civil police force, while leaving a military force on the Indian side of the cease-fire line, "was consistent with a really free plebiscite."

The British representative also recalled the Anglo-American proposal of February 1951 that a "neutral force" might be used in Kashmir to facilitate demilitarisation, in case either side had any doubts about a renewal of conflict.

Concluding his remarks on the draft Anglo-U.S. resolution, Sir Gladwyn Jebb said:

"Within a matter of months we might hope to see the forces in Kashmir reduced to the level at which a fair and impartial plebiscite could take place.

"Within a matter of months we might hope to see the Plebiscite Administrator formally appointed and established inside Kashmir to begin the final task of preparing for the voting to take place."

The introduction of the Anglo-American resolution in the Security Council and the persistent attempt made by the British delegate to equate the status of India and Pakistan in Kashmir, and thus render nugatory the past pledges given to India by the Security

Council, evoked great protests in Kashmir and India. Speaking in the Jammu and Kashmir Legislative Assembly, Sheikh Mohammad Abdullah stated:

"The British Representative in the Security Council, Sir Gladwyn Jebb, has put forward fresh proposals to resolve the conflict between the parties. Suggestions totally unrelated to the case have been made in the proposals which would certainly repudiate even the commitments of the Security Council itself. All this is being done obviously with the idea of striking a balance in the points of view of India and Pakistan."

Proceeding further he said:

"I have not been surprised by the recent statement of Sir Gladwyn Jebb. He has carried forward, with a certain amount of consistency, the views of his predecessors in the Council. These views conform to the larger policies which the British Government has been pursuing immediately before and after the partition of India. It will be realised that the responsibility for the complications which beset the Kashmir issue to-day are a direct consequence of the British Imperial policy towards the Indian States and especially in its relation to our State. The origin of the Kashmir trouble was not unknown to the British Government and, if there were the smallest evidence of sympathy or foresight, perhaps the trouble could have been very well averted. This is not of course an isolated instance of the complicity of the British Government in complicating relations between parties which, but for their constant interference, would have been friendly with each other. As a colonial power, the British Government is always impelled to safeguard its own interests and its policies are not always dictated by principles of democracy and freedom. What is happening today in South Africa and some other British colonies is a clear illustration of this policy."

Discussing the attitude of America towards the draft resolution, the Prime Minister said:

"It is a matter of regret that a great country like the U.S.A. should lend its support, apparently with no colonial interests, to unpopular causes in its eagerness to secure the goodwill of the British Government. If this policy of backing the wrongdoer is continued, the smaller nations, who are struggling to liberate themselves from colonial subjugation of the British and other countries, will soon lose faith in the ability of the United States to safeguard the principles of



democracy. It is not philanthropy which can win America friends in Asian and colonial countries, but an active interest in, and warm sympathy for, their freedom and progress."

The Kashmir Premier told the Legislative Assembly that no one misunderstood the implications of the latest British move in regard to Kashmir:

"This has been deliberately put forward in order to disrupt the solidarity of the Asian and Arab peoples in the United Nations, which seriously threatened the position and interests of all colonial powers. I have no doubt that these nations will not be misled by the subtle attempt to divide their ranks."

